

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 4367 of 2011 (O&M)
Date of Decision: September 29, 2017

Vikas

..Appellant(s)

Versus

Jai Bhagwan and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Pawan Kumar Hooda, Advocate and
Mr. S.S. Sandhu, Advocate
for the appellant.

Mr. Rishav Jain, Advocate for
Mr. Arun Jindal, Advocate
for respondent nos.1 & 2.

Ms. Vandana Malhotra, Advocate
for respondent no.3-Insurance Company.

ANITA CHAUDHRY, J.

This appeal is directed against the award dated
07.01.2011, passed by the Motor Accident Claims Tribunal, Karnal.

The case had been adjourned on the previous date to
enable the appellant to file an application for additional evidence. The
case was being adjourned for this purpose for a number of years but no
application has been filed till date. Counsel states that they have not to
file any application.

Vikas was 24 years and was a student of the B.Tech when he met with an accident on 04.03.2007. His stay in the hospital was for four days. He had graduated the same year and got a degree in June 2007. The Tribunal took the notional income at Rs.5,000/- per month to calculate the disability but made a deduction of 1/3rd and made the calculations to assess the disability. The Tribunal also took the functional disability at 15%. It noted that a sum of Rs.3,33,008/- was spent on treatment and purchase of medicines. A sum of Rs.10,000/- was allowed for pain and sufferings and Rs.10,000/- for special diet and the claim of Rs.4,60,998/- was allowed.

Counsel for the appellant contends that the appellant's whole career had been shattered on account of injury and has affected his future and the Tribunal wrongly made a deduction towards personal expenses and the income was taken on the lower side and since he was educated, he could have earned much more and some addition should have been made towards future prospects. The counsel submits that amount for pain and suffering, attendant charges and loss of amenities should be granted.

The submission on behalf of the insurance company is that the accident had taken place in March but the appellant had appeared for his examinations in June and that shows that there was no disability and he could pursue his study.

It is not disputed that the appellant had appeared for the examination and had cleared his 8th semester of B.Tech examination and the detail mark-sheet is also available on record. The disability was to the extent of 30% in the eye and it was permanent in nature and it related to one eye. The record reveals that he had been advised eye drops/refresh gel even in 2011.

Addition on some of the heads would be necessary as the amount allowed is on the lower side. The minimum wages in that year were less than Rs.2,500/- per month. The Tribunal had taken the notional income to be Rs.5,000/- per month for which I would make no change but an addition of 50% should be made for future prospects. Considering his age, the income is taken as Rs.10,000/- per month and the functional disability is taken as 15%. The loss would be Rs.1,500/- per month and the compensation would be Rs.3,24,000/-. Following amount is also allowed:-

Sr. No.	Head of Compensation	Amount
1.	Loss of amenities	Rs.50,000/-
2.	Pain and suffering	Rs.50,000/-
3.	Attendant charges (two months)	Rs.5,000/-
4.	Transportation charges	Rs.3,000/-
5.	Special diet	Rs.5,000/-
6.	Future expenses on medicines	Rs.25,000/-
7.	Actual amount spent on the treatment	Rs.3,33,008/-
	Total	Rs.4,71,008/-

The total of the above comes to Rs. 7,95,008/- (3,24,000 + 4,71,008). The Tribunal had allowed Rs.4,60,998/-, which would be deducted and the remaining amount would be payable to the appellant by the insurance company with interest @ 6% from the date of filing of appeal till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

September 29, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No