

**In the High Court of Punjab and Haryana at Chandigarh**

**F.A.O No. 1699 of 2012  
Date of Decision: 05.4.2017**

Sandeep Kumar

.....Appellant

Versus

Naazeem and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Ashit Malik, Advocate  
for the appellant.

Mr. Suvir Dewan, Advocate  
for respondent No. 3.

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**ANITA CHAUDHRY, J**

This is the claimant's appeal seeking enhancement in the award dated 6.12.2011 passed by the Motor Accident Claims Tribunal, Panipat.

Sandeep Kumar was 19 years old and a student of B.A. IInd year. He met with an accident which left him disabled. The Tribunal took the medical expenses at Rs. 1,34,160/- (actual) and allowed Rs. 75,000/- for the disability as at that point it was stated to be temporary. A sum of Rs. 1,00,000/- was allowed for pain and suffering, Rs. 20,000/- was allowed for special diet, attendant charges and transportation. An award of Rs. 3,29,160/- was passed.

An application was moved here to place the disability certificates Annexure A-2 and A-3 on record as the appellant had claimed that the disability was later declared as permanent. The Coordinate Bench permitted the appellant to produce the documents and also permitted them

(Rules).

I have heard both the sides.

It is not in dispute that the appellant had sustained an injury on the head. There was a depressed fracture of the skull which made it impossible for the appellant to move around. He is confined to a wheel chair and needs an attendant to help him in his daily chores. The appellant had himself appeared in the witness box to give an account of the accident. It was observed by the Tribunal that it did not affect the brain but it had left him physically disabled for life. The disability was declared temporary. The Tribunal had taken the functional disability at 25% and a lump-sum amount of Rs. 75,000/- was only awarded.

The submission on behalf of the appellant is that the appellant was a student of B.A. IInd year and had applied for a job of a Constable and his physical test was on the next day. The counsel had referred to Ex. P-74 to show the admit card for physical endurance and measurement test. It was urged that the injured obtained conductors licence which is available on record and the multiplier method should have been used to calculate the loss and the income has to be higher. It was urged that no amount had been allowed for transportation though there were bills to show that he had spent Rs. 40,000/- for going to the hospital and physiotherapist. It was urged that the appellant was also entitled to the amount for loss of marriage prospects and a higher amount for pain and suffering and he will have to suffer for the rest of his life and his entire career has been affected. It was urged that the appellant was also entitled to some amount for the attendant. It was urged that an amount towards future prospects should also be added to the income.

The submission on the other hand was that the appellant was

only a student and had no income and the notional income which are the minimum wages should be taken and not beyond that amount.

It is not in dispute that there is a permanent disability. When the Tribunal had decided the matter, the disability was stated to be temporary and it was also reported that it would improve by time. A re-assessment was done in 2015 and the medical officers had assessed the disability to be 75% and it is permanent in nature. The appellant cannot move around on his own and is confined to a wheel chair. For the purpose of calculations, some amount as income has to be taken and the multiplier method has to be applied to calculate the loss. The minimum wages in Haryana in 2010 stood at Rs. 4348/- per month. The appellant was aspiring to become a Constable. Even if he could not get that job he would have been able to earn more than a labourer. Therefore, I would take the notional income to be Rs. 5,000/- per month. An addition of 50% will have to be made towards future prospects. Reference can be made to ***V. Mekala versus M. Malathi and another 2015(1) Law Herald 268***. The income would be Rs. 7500/-. Taking the loss of 75% to be Rs. 5625/- and applying the multiplier of 18, the compensation would come to Rs. 12,15,000/-. I would add Rs. 25,000/- more as transportation charges, Rs. 25,000/- for special diet, Rs. 1,00,000/- for loss of marriage prospects, Rs. 2,00,000/- more for pain and suffering and Rs. 2,00,000/- for attendant charges raising the total to Rs. 17,65,000/-. The Tribunal had awarded Rs. 3,29,160/- which would be deducted and the remaining amount i.e. Rs. 14,35,840/- would be payable to the appellant with interest @ 6% from the date of filing of the appeal till realization. The payment would be made by draft after deducting tax.

The appeal is partly allowed.

(ANITA CHAUDHRY)  
JUDGE

April 05, 2017  
Gurpreet

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|---------------------------|---|-----|
| Whether speaking/reasoned | : | Yes |
| Whether reportable        | : | No  |