

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6540 of 2012

Date of Decision:01.11.2017

Sukhwant Singh

---Appellant

vs.

Dhalwinder Singh @ Dharminder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Jaideep Kaur, Advocate
for Mr. J.S.Thind, Advocate
for the appellant

None for respondent No. 1

Mr. Neeraj Khanna and Mr. M.S.Khanda, Advocates
for the insurance company

Rekha Mittal, J.

The injured claimant is in appeal seeking enhancement of compensation on account of injuries sustained by him in a motor vehicular accident that took place on 21.7.2009.

The Motor Accidents Claims Tribunal, Moga (hereinafter to be referred to as “the Tribunal”) awarded an amount of Rs. 6,45,600/-, detailed hereunder:-

1. Medical expenses	Rs. 1,54,334/-
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2. Loss of future income on Rs.4,61,311.12/-
account of disability

3. Pain and suffering Rs. 30,000/-

Counsel for the appellant has submitted that the injured-victim lost his both legs above knees and his disability by the Tribunal has been assessed to the extent of 100% though as per the disability certificate Ex. PW-6/A he was held to be disabled to the extent of 80%. It is argued that the Tribunal has wrongly allowed loss of future income to the extent of 80% in place of awarding compensation by considering loss of income to the extent of 100%.

Another submission made by counsel is that the Tribunal has assessed income of the victim at Rs, 3600/- by considering him as a casual labourer but has not allowed benefit of increase in income for future prospects. Compensation awarded for pain and sufferings is inadequate. No compensation has been awarded for loss of amenities of life, attendant charges, special diet and transportation etc.

Counsel representing the insurance company, on the contrary, would urge that adequate compensation has been awarded by the Tribunal.

I have heard counsel for the parties, perused the paper book particularly the award dated 8.10.2011 passed by the Tribunal.

The claimant met with unfortunate occurrence on 21.7.2009 which has absolutely changed his future by rendering him totally disable as both his legs above knees have been amputated. The Medical Board assessed disability to the extent of 80%. Taking into consideration nature of work being performed by the victim prior to the occurrence coupled with

nature and extent of disability suffered by him, the Tribunal has rightly held him 100% disable for computing loss of future income. The Tribunal has assessed income of the victim at Rs. 3600/- per month and the same is affirmed. By extending benefit of increase in income to the extent of 40% as the victim was 27 years old at the time of occurrence, loss of future income comes to Rs. $3600 \times 12 \times 17 = 7,34,400 + 2,93,760(40\%) = \text{Rs. } 10,28,160/-$.

Compensation allowed by the Tribunal for medical expenses to the tune of Rs. 1,54,334/- rounded off to **Rs. 1,54,500/-** is affirmed. The injured-victim remained hospitalized for a period of 21 days from 21.7.2009 to 11.8.2009. Indisputably, both his legs above knees were amputated on account of sustaining injuries. In the circumstances, the claimant is awarded an amount of **Rs. 50,000/-** for pain and suffering. He shall be entitled to an amount of **Rs. 1,50,000/-** for loss of amenities of life. Taking into consideration the period of hospitalization and nature of injuries sustained by the victim, he is awarded an amount of **Rs. 30,000/-** for special diet, transportation and attendant charges. The total compensation comes to **Rs. 14,12,660/-** and the additional amount is **Rs. 7,67,060/-** (14,12,660 - 6,45,600). The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization. Out of the additional amount, an amount of Rs. 1,00,000/- would be paid to the injured victim and the remaining amount shall be deposited in a fixed deposit receipt. The injured shall be entitled to get interest on the FDR. After every two years, he shall be entitled to withdraw an amount of Rs. 1,00,000/- for

meeting his expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

01.11.2017
paramjit

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