

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

-.-

FAO 3677 of 2013

Date of decision: 10.08.2017

Jagir Singh

..... Appellant

Versus

Rishi Pal Saini etc.

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. R S Rana, Advocate
 for the appellant

Mr. M B Jain, Advocate
 for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

The injured claimant is in appeal seeking enhancement of compensation on account of injuries sustained by him in a motor vehicular accident on 11.04.2012.

The Tribunal awarded Rs.2,75,000.00, as per detail given hereunder:-

Loss of disability/loss of future income	1,40,000.00
Expenses on treatment	94,000.00
Loss of income during treatment	16,000.00
For pain and suffering	15,000.00
For special diet, transportation and services of attendant	10,000.00

Counsel for the appellant has submitted that the injured victim remained hospitalized on different occasions namely 11.04.2012 to 15.04.2012, 16.04.2012 to 10.05.2012 and 16.06.2012 to 19.06.2012 for the

purpose of treatment and his left leg below knee was amputated during his hospitalization from 16.04.2012 to 10.05.2012. It is further argued that prior to the accident, claimant was working as helper on a crane at salary of Rs.8,000.00 per month but due to amputation of his left leg, he is rendered disabled 100% for doing that job. According to counsel, compensation awarded by the Tribunal under the aforesaid heads is inadequate particularly compensation for future loss of earning, required to be assessed by adopting multiplier method.

Counsel representing the insurance Company has supported the award with the submission that adequate compensation has been allowed by the Tribunal. However, it is submitted that a reasonable addition may be made in the given circumstances.

I have heard counsel for the parties and perused the paper book particularly the award impugned.

The claimant sustained injury i.e. fracture of tibia fibula left multiple pieces and his left leg below knee was amputated. Dr. Bimla Gauri, Medical officer, Kurukshetra (PW1) was examined to prove disability to the extent of 70%, assessed by a Medical Board that issued the disability certificate Ex.P1. There is no clear evidence available on record as to what activity the injured victim can perform despite amputation of his left leg to the extent of 1/3rd.

Hon'ble the Supreme Court in **R.D. Hattangadi Vs. M/s Pest Control (India) Pvt. Ltd., AIR 1995 (SC) 755**, has laid down in para 9, reproduced here-in-below for ready reference:-

“9. Broadly speaking while fixing an amount of compensation payable to a victim of an accident,

the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which is capable of being calculated in terms of money-, whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may, include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit upto the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

In view of the facts and circumstances of the instant case when examined in the light of judgment of Hon'ble the Supreme Court of India ***Raj Kumar Vs. Ajay Kumar and others, 2011 (2) RCR (Civil) 101,*** compensation for loss of future income is required to be assessed by adopting multiplier method.

The claimant examined Surjit Singh (PW5) to establish his plea that he was working as a Crane helper at monthly salary of Rs.8,000.00 but

Shri Surjit Singh did not produce any documentary evidence in support of

his version that the victim was paid Rs.8,000.00 per month. Under the circumstances, this Court has to consider minimum wage available to a casual worker in the State of Haryana in April 2012. Taking the notification issued by the State of Haryana in view, income of the victim is assessed at Rs.4,900.00 per month.

The victim suffered amputation of his left leg to the extent of lower 1/3rd. It is difficult to accept that in view of nature of disability, he would be rendered disabled to the extent of 100%. By taking assistance from various judgments of Hon'ble the Supreme Court of India referred to in judgment of this Court **Bhim Singh versus Mahender Singh and others (FAO 600 of 2006 decided on 25.07.2016)**, disability for the purpose of loss of future income is taken as 50%. In this view of the matter, appellant is entitled to **Rs.4,99,800.00** (4,900 x 12 x 17/2).

The Tribunal has awarded Rs.16,000.00 for loss of income during period of treatment. As income of the victim is assessed at Rs.4,900.00 per month, he is entitled to Rs.21,600.00 for loss of income for four months. Further, in view of nature of injuries sustained by the victim, compensation awarded by the Tribunal for pain and suffering, is doubled by making it to Rs.30,000.00. Similarly compensation awarded for special diet, transportation and services of attendant is enhanced to Rs.25,000.00.

The claimant has suffered amputation of left leg which would create hindrance in his frequent movement, squatting, running, climbing stairs etc. The victim was 26 years of age at the time of occurrence, he is held entitled to Rs.1,50,000.00 for loss of amenities of life.

In view of the above, total compensation payable to the

claimant comes to **Rs.7,26,400.00** (4,99,800.00 + 21,600 + 30,000 + 25,000 + 1,50,000) and additional amount is **Rs.4,51,400.00** (7,26,400-2,75,000).

The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

10.08.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No