

**XOBJC No. 138-CII of 2015 in/and
FAO No. 1802 of 2015**

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

**XOBJC No. 138-CII of 2015 in/and
FAO No. 1802 of 2015**

Date of Decision: 12.10.2017

Oriental Insurance Company Limited

.....Appellant

Versus

Raneesh M. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Talwar, Advocate and
Ms. Priyadeep, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate and
Ms. Amandeep Kaur, Advocate
for respondent No.1.

AVNEESH JHINGAN, J.

The appeal and cross objection have been filed against the award dated 11.11.2014 passed by the Motor Accidents Claims Tribunal, Chandigarh (for short 'the Tribunal').

The Insurance Company has filed the present appeal challenging the quantum of compensation awarded. During the pendency of the appeal, cross-objection has also been filed for enhancement of the compensation by the claimant.

The brief facts necessary for adjudication of the present appeal are as under:

On 22/23.6.2012 Raneesh, aged 28 years was going on his

scooter bearing registration No. CH-03-D-4097 near Kali Badi Mandir, Chandigarh, he was hit by a car bearing registration No. CH-01-AG-0713, which was being driven in a rash and negligent manner. As a result of the accident, he suffered injuries and was taken to Command Hospital, Chandimandir. He remained admitted there from 23.6.2012 to 3.8.2012 His left leg was amputated below knee and right leg was supported by an artificial nail which was inserted by a major operation. He was posted as Technician in Indian Air Force holding the rank of Corporal (CPL) posted at 3BRD, Chandigarh. His disability was assessed as 65% permanent disability qua both lower limbs. His salary was assessed as ₹ 27,990/- per month. The Tribunal awarded a sum of ₹ 42,15,632/- along with interest at the rate of 7.5% per annum.

Aggrieved by the said award, the present appeal and cross-objection have been filed.

The grievance of the counsel for the appellant-Insurance Company is that compensation for permanent disability awarded of ₹ 39,29,688/- is on the higher side and has been calculated by applying a wrong multiplier of 18 whereas multiplier of 17 should have been applied. Learned counsel further argued that it has come on record that the injured would continue in service of Air force and would be entitled to his increments due from time to time. Learned counsel further agitated that the Tribunal has erred in taking 65 % disability qua both lower limbs as disability for whole body and thereby calculating the compensation on that basis.

Learned counsel further argued that under the Act, just and equitable compensation is to be awarded. In the present case, since he is

continue with his job and is entitled to increments, so permanent disability cannot be equated with functional disability and in such circumstance, multiplier methods should not have been applied.

On the other hand learned counsel for the respondent No.1-cross-objector/claimant has argued that though the claimant is continuing with the job, but his future prospects has been effected as he would not be entitled to promotions in future as he has been put in different medical category. He further argued that his working has also been effected as he would not be able to climb the Air Craft and perform his duty of an Engine Fitter. He further argued that it was schedule injury, therefore, the Tribunal has rightly taken percentage of permanent disability for calculating compensation. He also argued that loss of future prospects has also not been granted by the Tribunal.

After hearing learned counsel for the parties and perusing the paper book and record but without expressing any opinion on the merits of the case, I deem it appropriate to remand the matter back to the Tribunal for afresh adjudication.

The issues raised by both the sides are highly technical in nature and are required to be supported by witnesses and evidence of the technical people of Air force and of the medical board.

The issues in appeal and cross objections be considered by the Tribunal after granting opportunity to both the parties to support their claims. The award dated 11.11.2014 is thus set aside and the matter is

remitted to the Tribunal to decide afresh. The amount of compensation already paid would be subject to the decision of the remand proceedings.

Hence, parties are directed to appear before the Tribunal on 23.11.2017.

The appeals are disposed of accordingly.

12.10.2017
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No