In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 298 of 2014 (O&M)
Date of Decision: 03.8.2017

Rajbir @ Raj Kumar ......Appellants

Versus

Mohinder Kumar and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Neelam Mor, Advocate along with
Mr. Sandeep Goyat, Advocate
for the appellant.

Mr. R.N.Singal, Advocate
for respondent No. 3.

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ANITA CHAUDHRY, J

This is the claimant's appeal seeking enhancement in the award dated 15.1.2013 passed by the Motor Accident Claims Tribunal, Hisar.

Rajbir and Virender were proceeding on a motor cycle when a truck driven by respondent No. 1 struck from behind. Both the riders fell down and resulted in the amputation of Rajbir's legs below the knee.

Rabir was working as a tailor. His income was assessed as Rs. 5,000/- per month and an addition of 30% towards future prospects was made. The disability was taken as 50% as the Tribunal was of the view that he could still work as a tailor and reduced the loss to Rs. 39,000/- per annum and applied the multiplier of 15 and the following amount was allowed to him:-

	Amount (in Rs.)
Grievous injuries	40,000/-
Disability	5,85,000/-
Treatment/medicines	5,90,000/-

Attendant charges	1,00,000/-
Pain and suffering	40,000/-
Total	**13,55,000/-**

The submission on behalf of the appellant is that there could have been no reduction in the disability when the medical officers had assessed the disability at 100% and both the legs of the appellant below the knee had been amputated and it would not be possible for him to earn and assessment should be done taking the disability to be 100%. The counsel further submits that the amount allowed for pain and suffering is on the lower side and he would need an attendant to help him in the daily chores and cannot communicate on his own and he would need to spend on transportation for rest of his life and the amount allowed on all the heads is on the lower side.

The counsel appearing for the insurance company urges that the appellant was not a labourer and a tailor has to work with hands and he will be able to earn and the disability would not be 100%, therefore the Tribunal had rightly taken the loss of income to the extent of 50%.

The medical officer had assessed the disability at 100% and I would take the disability at 100% and calculate the loss without making any deduction. Taking the income to be Rs. 78,000/- per annum as was assessed by the Tribunal which also added for future prospects and applying the multiplier of 15, the amount on account of disability would be Rs. 11,70,000/- and I would make the following additions:-

	Amount (in Rs.)
Disability	11,70,000/-
Pain and suffering	5,00,000/-
Attendant charges	2,00,000/-
Loss of amenities	3,00,000/-

Transportation	50,000/-
Total	**22,20,000/-**

The Tribunal had awarded Rs. 13,55,000/-, which would be deducted and the remaining amount i.e. Rs. 8,65,000/- would be paid by the insurance company within two months failing which the insurance company will pay the balance amount with interest @ 6% from the date of filing of the appeal till the amount is actually paid.

The award is modified. The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

August 03, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No