

In the High Court of Punjab and Haryana at Chandigarh

**F.A.O No. 4420 of 2013 (O&M)
Date of Decision: 17.1.2017**

Mohd. Aasif

.....Appellant

Versus

Shalini Kumar Chauhan and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. J.S.Hooda, Advocate
for the appellant.

Mr. Virender Rana, Advocate
for respondents No. 1 and 2.

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

ANITA CHAUDHRY, J (ORAL)

Mohd. Aasif was a little over 18 years when he met with an accident on 18.4.2011. His right leg below the knee was amputated. The disability was assessed to be 70%. The claimant was third year student doing diploma in Polytechnic Institute, Utawar.

The Tribunal gave a categoric finding that the accident occurred on account of negligence of respondent No. 2. There was disability to the extent of 70%. The tribunal awarded actual expenses of Rs. 62,088.64 towards the amount spent on medicines. A lump-sum amount of Rs. 3,00,000/- was awarded to be paid by the insurance company.

The records have been summoned.

I have heard both the sides.

Counsel for the appellant cites '**Master Mallikarjun versus Divisional Manager, The National Insurance Company Limited and another, 2013(4) R.C.R. (Civil) 295** and urges that the Tribunal without even determining the income awarded a lump-sum amount. The counsel further urges that there was permanent disability and it had affected his prospects of marriage and the Tribunal did not take into account that he could require artificial leg and no amount was awarded for the attendant or for special diet, transportation and future prospects. It was urged that the functional disability would be 100% as it would be difficult for him to work with an amputation.

The submission on the other hand was that the judgment referred to by the appellant was with respect to the damages to a child victim and was not applicable and the Tribunal had awarded adequate amount.

The appellant had suffered injuries in the accident and this fact is not in dispute. It is not disputed that his leg was amputated. The Tribunal without assessing the income and the loss that had occurred awarded lump-sum amount of Rs. 3,00,000/-. The disability was permanent in nature and adversely affected the future prospects. The Tribunal has not awarded compensation on certain heads. The appellant is entitled to more compensation. Assuming the income to be Rs. 4,000/- per month and Rs. 48,000/- per annum and calculating this loss at 70% the loss of future income would be Rs. $33,600 \times 18 = 6,04,800/-$

The Tribunal has not awarded any amount towards loss of prospects of marriage, loss of earning during the period of treatment, loss of expectation of life and towards pain and suffering. He should have been

awarded some amount for the artificial leg and some amount for the

attendant. The appellant was a young man and he will have to suffer trauma for the rest of his life and therefore, I feel that ends of justice will be met, if the following amounts are awarded besides Rs. 6,04,800/- :-

1.	Loss of prospects of marriage	Rs. 1,00,000/-
2.	Pain and suffering	Rs. 1,00,000/-
3.	Artificial Leg	Rs. 25,000/-
4.	Attendant Charges	Rs. 20,000/-
5.	Earning for three months	Rs. 12,000/-

In the result, the appeal is partly allowed. The appellant is awarded a sum of Rs. 2,57,000.00 + 6,04,800.00 = 8,61,800.00 + 62,088.64 (rounded to Rs. 62,100.00) = 9,23,900.00. The amount allowed by the Tribunal would be deducted and the remaining amount i.e. Rs. 6,23,900.00 would be paid with interest at the rate of 7% per annum from the date of filing of the claim petition till realisation.

The respondents are directed to pay the balance amount in the form of a bank draft in the name of the appellant.

(ANITA CHAUDHRY)
JUDGE

January 17, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No