

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

FAO No. 4078 of 2014(O&M)

Date of decision: 12.9.2017

Sonu

....Appellant

VERSUS

Sant Lal and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Puneet Kakkar, Advocate for the appellant.

Mr. Subhash Goyal, Advocate for respondent No.2.

REKHA MITTAL, J.(Oral)

The injured claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panipat (in short 'the Tribunal') in regard to injuries sustained by him in a motor vehicular accident that took place on 11.08.2009.

The Tribunal awarded compensation to the tune of Rs.8,18,991/- detailed hereunder:-

1. Medical expenses	Rs.83,871/-
2. Better diet	Rs.10,000/-
3. Pain & Agony	Rs.25,000/-
4. Transportation charges	Rs.5,000/-
5. Disability	Rs.6,45,120/-
6. Future expenses and loss of prospects	<u>Rs.50,000/-</u>
Total	<u>Rs.8,18,991/-</u>

Counsel for the appellant has submitted that the injured suffered disability to the extent of 80% due to amputation of his right leg above knee. The Tribunal has applied a multiplier of 16 but the admissible

multiplier should be 18 as the injured was 20 years old at the time of occurrence. He is entitled to loss of future income by allowing benefit of future prospects as well. Compensation awarded by the Tribunal under various heads is inadequate and liable to be enhanced. No compensation has been awarded by the Tribunal qua loss of amenities of life and adverse effect on matrimonial prospects of the injured.

Counsel representing the insurance company has supported the award with the submission that adequate compensation has been awarded by the Tribunal.

The Tribunal has assessed income of the deceased at Rs.4,200/- per month and applied a multiplier of 16 to compute loss of income to the extent of 80%, disability suffered by the victim. The disability suffered by the victim is qua a particular limb and not the whole body. There is no clear evidence available on record as to what activity was being performed by the victim prior to the occurrence and the activity he would not be able to do on account of sustaining disability to the extent of 80% to a particular lower limb. Under the circumstances, the claimant shall be entitled to loss of income qua disability by taking into consideration his income at Rs.4,200/- per month though at the relevant time, minimum wage was Rs.3,940/- per month. However, compensation is to be assessed by applying a multiplier of 18 in the light of judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.** In this manner, loss of income qua disability comes to Rs.7,25,760/- (Rs.4200/- x 12 x 18 x 80%)

The injured victim remained hospitalized w.e.f. 11.08.2009 to 18.08.2009. The injuries sustained in the accident has resulted in

amputation of his right leg above knee resulting in disability to the extent of 80% to that limb. The claimant shall be entitled to an amount of Rs.25,000/- for transportation, special diet and services of an attendant. The Tribunal has awarded an amount of Rs.25,000/- for pain and sufferings. In view of injuries sustained resulting in disability to the extent of 80% on account of amputation of right leg, the claimant is awarded an amount of Rs.50,000/- for pain and sufferings. He shall be entitled to an amount of Rs.1,50,000/- for loss of amenities of life and adverse effect on his matrimonial prospects. Compensation awarded by the Tribunal with regard to future prospects to the extent of Rs.50,000/- is rejected.

In this manner, total compensation is detailed hereinbelow:-

1. Loss of income/disability	Rs.7,25,760/-
2. Medical expenses	Rs.83,871/-
3. Transportation charges, special diet and services of an attendant	Rs.25,000/-
3. Pain & sufferings	Rs.50,000/-
4. Loss of amenities of life and matrimonial prospects	<u>Rs.1,50,000/-</u>
Total	<u>Rs.10,34,631/-</u>

The additional amount is Rs.2,15,640/- (Rs.10,34,631/- - Rs.8,18,991/-) payable with 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.

SEPTEMBER 12, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no