

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

FAO No.4334 of 2014 (O&M)
Date of decision: 14.12.2017

Gaurav

.... Appellant

versus

Jaspal Singh and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Gaurav Gupta, Advocate for
Mr. Ashish Yadav, Advocate
for respondent No.3.

Rekha Mittal, J(Oral)

The injured victim is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Chandigarh (in short 'the Tribunal') on account of injuries sustained by him in a motor vehicular accident that took place on 27.04.2010.

The Tribunal has awarded compensation to the tune of Rs.4,02,945/-, detailed hereunder:

Loss of income during the period of treatment	Rs.36,000/- (Rs.6,000 x 6)
Expenses on medicines/treatment	Rs.1,78,145/-
Special diet	Rs.7,000/-
Expenses on Transportation	Rs.10,000/-
Loss of future income	Rs.91,800/-
Pain and suffering	Rs.40,000/-
Loss of amenities of life	Rs.40,000/-

Counsel for the claimant would urge that compensation awarded by the Tribunal with regard to loss of income as well as loss of future income is on lower side and needs enhancement. Another submission made by counsel is that the Tribunal has not awarded any compensation with regard to services of an attendant. To bring home his contention, he has referred to the statements of Dr. Soumen Roy – PW-1 and Dr. Aditya Aggarwal – PW-3. It has been urged that Dr. Soumen Roy - PW-1 in the concluding lines of his examination-in-chief has deposed that in such kind of cases patient has to remain bed-ridden for months together, which may be more than six months. Dr. Aditya Aggarwal – PW-3 was examined to prove disability to the extent of 25% suffered by the victim. It is argued that he has deposed that the claimant will have problem of running, walking for long distance. He may have some problem during prolonged standing.

Counsel representing the insurance company, on the other hand, would urge that the Tribunal on a detailed consideration of the matter has assessed adequate compensation and there is no justification for enhancement. It is further argued that even if the victim has suffered disability to the extent of 25% in respect of his right lower limb as deposed by Dr. Aditya Aggarwal, there may not be any loss of future income as the victim was running a 'paan' shop and he would be able to carry on that business even after the occurrence.

I have heard counsel for the parties, perused the paper book and records.

Dr. Soumen Roy, Sr. Resident, Department of General Surgery, PGIMER, Chandigarh brought the record pertaining to admission, treatment and discharge of injured. Immediately after the accident, he remained

admitted in the hospital w.e.f. 28.04.2010 to 09.08.2010. He was re-admitted on 16.12.2011 and discharged on 13.01.2012. He was operated upon twice during his first admission and once at the time of second admission. Taking into consideration the period of admission as an indoor patient coupled with time likely to take for recovery after discharge from the hospital, claimant is held entitled to loss of income for a period of nine months qua period of treatment and recovery. Accordingly, loss of income in this regard comes to Rs.6,000/- x 9 = Rs.54,000/-.

As per testimony of Dr.Soumen Roy, the victim had blunt trauma abdomen with ileal gangrene with fracture of pelvis, right femur, nasal bone. As has been discussed hereinbefore, he remained hospitalized for a period of approximately five months. He suffered disability to the extent of 25% to his right lower limb. He certainly required the services of an attendant throughout the period of hospitalization and few months thereafter. The claimant is awarded an amount of Rs.16,000/- for services of an attendant. He shall be entitled to ₹ 25,000/- for loss to matrimonial prospects.

So far as compensation qua loss of future income, there is no medical opinion with regard to extent of functional disability due to disability of 25% to the right lower limb. Perusal of the statement of Dr. Aditya Aggarwal makes it evident that the victim will have some difficulty in running/walking for long distance and he may have some problem during prolonged standing. However, in his cross-examination, he would state that he may have some problem if he continue sitting for a long time.

Taking into consideration the medical opinion expressed by Dr. Aditya Aggarwal, functional disability would be taken as 10% in place

of 5%. Accordingly, loss of future income would be Rs.91,800 x 2 = Rs.1,83,600/-. In view of the above, compensation comes to Rs.5,53,745/- and the additional amount is Rs.1,50,800/-. The additional amount will carry interest @ 7.5% per annum from the date of petition till realisation.

The appeal is partly allowed in the aforesaid terms.

14.12.2017
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(Rekha Mittal)
Judge

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No