IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2955 of 2015 (O&M)
Date of Decision: October 09, 2017

Karun Sabharwal ..Appellant(s)

Versus

Joginder Sharma and others ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. T.S. Grewal, Advocate
for the appellant.

Mr. Sanjeev Goyal, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement of the award dated 23.01.2015, passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri.

Karun Sabharwal met with an accident on 18.11.2011. He was 28 yeas old at that time. It was claimed that he was a scrap dealer and his income was Rs.12,000/- per month. He suffered a disability of 10%. The Tribunal noted that there was a fracture of the neck of the femur and it led to difficulty in walking. The Tribunal had assessed the functional disability at 5% and had awarded a lump sum amount of Rs.10,000/- for the injury. The expenses made on the treatment, purchase of medicines and the operation charges which was to the extent of Rs.7,55,828/- was allowed. Apart from this, Rs.20,000/- was allowed for pain and suffering, Rs.5,000/- for transportation, special diet and future attendant and Rs.50,000/- for loss of amenities of life. Award of Rs.8,41,000/- was allowed after rounding up the amount.

The counsel for the appellant contends that the income should have been taken to calculate the disability and when the disability was 10%, the calculation should have been made on that. It was urged that the appellant could not take care of his business for six months as he was confined to the bed and the Tribunal has not awarded any amount towards loss of income and separate amount should have been allowed for the special diet, transportation and for physiotherapy.

The submission on behalf of the insurance company is that if the assessment of disability is being made using the multiplier method then no separate amount should be allowed for loss of amenities and that should be deducted.

The accident is admitted and proved. The victim had pleaded that he was a scrap dealer though he could not lead any evidence that he was doing any business or was earning that much amount. The claimant had suffered a fracture of the femur neck and would have taken fairly long time till he was able to walk and attend to his business. In ***Syed Sadiq etc. Vs. Divisional Manager, United India Ins. Co., 2014(1) RCR (Civil) 765*** it was held that there should be addition of income in future prospects in the case where there is a disability.

The minimum wages in 2011 were Rs.4,643/- per month and if an addition of 50% towards future prospects is made, the income would come to Rs.6,964/-. The Tribunal had rightly taken the functional disability at 5% and the loss per month would come to R.348.20Ps. and the compensation would be 348.20 x 12 x 17 = Rs.71,032.80Ps., which is rounded off to Rs.71,040/-. The Tribunal had not allowed any amount towards loss of income, special diet, physiotherapy and I would award the following:-

Sr. No.	Head of Compensation	Amount
1.	Loss of income (Rs.4643 x 6)	Rs.27,858/-
2.	Attendant charges (Rs.3000 x 3)	Rs.9,000/-
3.	Special diet	Rs.15,000/-
4.	Physiotherapy (Rs.3000 x 6)	Rs.18,000/-
5.	Pain and suffering	Rs.25,000/-
6	Loss of amenities	Rs.50,000/-
7	Disability	Rs.71,040/-
8	Transportation	Rs.10,000/-
9	Treatment, medicines & Operation Charges	Rs.7,55,828/-

The total of the above comes to Rs.9,81,726/-. The Tribunal had allowed Rs.8,41,000/-, which would be deducted and the remaining amount would be paid with interest @ 6% from the date of filing of appeal till realization. The enhanced amount would be paid by the insurance company.

The appeal is partly allowed and award is modified on the terms mentioned above.

October 09, 2017 **(ANITA CHAUDHRY)**
sunil **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No