

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5430 of 2013(O&M)

Date of Decision:3.8.2017

Dayal Singh

---Appellant

vs.

Sukhwinder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vivek Suri, Advocate
for the appellant

Ms. Vandana Malhotra, Advocate
for the insurance company-respondent No. 3

Rekha Mittal, J.

The injured-victim is in appeal seeking enhancement of compensation in regard to injuries sustained by him in a motor vehicular accident that took place on 3.5.2010.

The Motor Accidents Claims Tribunal, Patiala (hereinafter to be referred to as “the Tribunal”) has awarded an amount of Rs. 2,50,000/- under the following heads:-

- | | |
|--|----------------|
| 1. On account of permanent disability | Rs. 1,80,000/- |
| 2. On account of future diminution of earnings | Rs. 30,000/- |
| 3. On account of pain and suffering | Rs. 30,000/- |
| 4. On account of loss of income during the period
of hospitalization and recovery | Rs. 5,000/- |

5. On account of attendant charges Rs. 2500/-

6. On account of special dies and extra Rs. 2500/-

Counsel for the appellant would contend that compensation awarded both under pecuniary and non-pecuniary heads is grossly inadequate and liable to be enhanced. To substantiate his contention, it is argued that the claimant suffered injury and his right leg below knee was amputated on 4.5.2010. It is further argued that the claimant was working in Food Corporation of India at a salary of Rs. 10,000/- per month. Due to amputation of his right leg, there will be total loss of income, therefore, he is entitled to get compensation by adopting an appropriate multiplier and taking his disability to the extent of 100%. In addition, it is argued that compensation awarded under other heads needs enhancement in the light of nature of injury and disability. No compensation has been awarded by the Tribunal for loss of amenities of life though the Tribunal has assessed functional disability to the extent of 60%.

Counsel representing the insurance company has supported the award with the submission that compensation assessed is just and reasonable and does not warrant interference.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

There is no dispute that the appellant sustained injuries and was taken to A.P.Jain Hospital, Rajpura. Amputation of right leg below knee was carried out. As per version of the appellant, he was admitted in the hospital on 3.5.2010 and discharged on 5.5.2010. Later, he remained admitted in the hospital from 7.5.2010 to 11.5.2010. He has proved disability certificate

Ex. P-2 with regard to having suffered disability to the extent of 60%, permanent in nature.

Counsel for the appellant has not disputed that no evidence was adduced by the appellant that he was working in Food Corporation of India much less at a salary of Rs. 10,000/- per month at the time of occurrence. He did not examine any doctor to prove as to how disability to the extent of 60% of right leg is to be assessed for the purpose of functional disability. However, the Tribunal has taken disability to be functional to the extent of 60%. The insurance company has not challenged findings of the Tribunal assessing functional disability as 60%. Since the claimant has not adduced any evidence with regard to his income, we have to fall back upon wages of a casual labour fixed by the State of Punjab and available in May 2010. After taking into consideration wage of an unskilled worker at Rs. 3550/- per month and applying a multiplier of 9, loss of future income qua disability to the extent of 60% comes to Rs. $3550 \times 12 \times 9 \times 60\% = \text{Rs. } 2,30,040/-$.

The Tribunal has awarded an amount of Rs. 1,80,000/- on account of permanent disability and Rs. 30,000/- on account of future diminution of earnings and the total comes to Rs. 2,10,000/-. The additional amount payable qua loss of income/permanent disability comes to **Rs. 20,040/-**.

The Tribunal has awarded an amount of Rs. 5,000/- for loss of income during period of hospitalization and recovery. In view of nature of injuries sustained, the amount is enhanced to **Rs. 10,000**. Compensation for pain and suffering is enhanced from Rs. 30,000/- to **Rs. 50,000/-**. Compensation for attendant charges and special diet is enhanced to **Rs.**

10,000/- under each head. The appellant is awarded an amount of **Rs.**

1,00,000/- for loss of amenities of life. In view of the above, additional

amount comes to **Rs.1,60,040/-**. The additional amount shall carry interest

at the rate of 7.5% from the date of petition till realization.

Appeal stands disposed of accordingly.

(Rekha Mittal)
Judge

3.8.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No