

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-.-

FAO 5188 of 2014 (O&M)
Date of decision: 26.09.2017

Nanak Chand *Appellant*
Versus
Joga Singh and another *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal
-.-

Present: Mr. Sumit Gupta, Advocate
for the appellant

Ms Tanvi Jain, Advocate
for respondent No. 1

Mr. Sanjeev Goyal, Advocate and
Mr. Rajbir Singh, Advocate
for respondent No. 2
-.-

Rekha Mittal, J. (Oral)

Nanak Chand, the injured victim is in appeal seeking enhancement of compensation in respect of injury (ies) sustained by him in a motor vehicular accident that took place on 29.04.2011.

The Tribunal awarded an amount of Rs.3,07,000/-, detailed hereunder:-

Compensation for permanent disability to the extent of 100%	2,00,000
Pain and suffering	20,000
Special diet, attendant charges and future prospects	80,000
Expenses on medical treatment	7,023 rounded off Rs.7,000

Counsel for the appellant has submitted that the injured has been rendered disable to the extent of 100% as his right leg was amputated below knee and left leg above knee. Ex P2 is the disability certificate issued by the Board of Doctors including Civil Surgeon/Chief Medical Officer, Karnal assessing permanent disability to the extent of 100%. It is argued with vehemence that in view of nature of injuries sustained leaving the appellant permanently disable to the extent of 100%, compensation awarded by the Tribunal under various heads is too meager and liable to be increased.

Counsel representing the insurance company, on the contrary, has supported the assessment made by the Tribunal with the submissions that even if both legs of the injured have been amputated to a particular extent, it cannot be accepted that he cannot do any work and earn something. The contention raised by counsel for the insurance company is echoed by counsel for the driver-cum- owner of the offending vehicle.

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

Counsel for the appellant, in response to a query, would inform that medical expenses based upon bills Exs P6 to P8 have been reimbursed by the Tribunal. The Tribunal has accepted plea of the claimant that he has become 100% permanent disable as his both legs have been amputated. The Tribunal has awarded a sum of Rs.2,00,000.00 qua disability at the rate of Rs.2000.00 per percent. The Tribunal did not bother to seek guidance from large number of precedents on the issue dealing with assessment of compensation for permanent disability and non-pecuniary damages. As the

injured victim has been rendered incapacitated to the extent of 100%, compensation for loss of future earning/disability has to be assessed by applying multiplier method. In this context, reference can be made to judgment of Hon'ble the Supreme Court of India ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***.

There is no clear evidence on record with regard to avocation of the injured or his income prior to the occurrence. The accident took place on 29.04.2011. Taking into consideration minimum wage of unskilled labour at the relevant time, income of the deceased is assessed at Rs.4,700.00 per month. As per plea of the claimant, he was 37 years old at the time of occurrence. However, on the basis of ration card Ex P9, he was 45 years old at the time of the occurrence. Taking into consideration his age recorded in ration card, the claimant is extended benefit of increase in income qua future prospects to the extent of 30%. By applying a multiplier of 13 in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77***, compensation for loss of future income/disability comes to Rs. 9,53,160.00 ($4700 \times 12 \times 13 = 7,33,200 + 2,19,966$).

The Tribunal has awarded Rs.20,000.00 for pain and sufferings. Counsel for the appellant is not in a position to inform as to how many days the injured remained hospitalized. However, it is undenied that both lower limbs of the injured were amputated due to receipt of injuries in the occurrence; the claimant is awarded Rs.50,000.00 towards pain and sufferings. Compensation of Rs.80,000.00 towards special diet, services of attendant etc. awarded is affirmed. The claimant shall be entitled to

Rs.1,00,000.00 for loss of amenities of life. The total compensation comes to Rs.11,83,160.00, detailed hereunder:-

Compensation for loss of future income/disability	9,53,160.00
pain and sufferings	50,000.00
Special diet, services of attendant etc.	80,000.00
Loss of amenities of life	100,000.00
Expenses on medicine	7,000.00

The additional amount of Rs.8,83,160.00 (11,90,160-3,07,000) shall carry interest at the rate of 7.5% per annum from the date of petition till payment. The other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

26.09.2017
mohan bimbura

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