

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4894 of 2015
Date of Decision: 17.8.2017

Pardeep @ Lilu @ Lala

---Appellant

versus

Kishmat Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner

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

Rekha Mittal, J.

The injured victim is in appeal seeking enhancement of compensation on account of injuries sustained by him in a motor vehicular accident. The Motor Accidents Claims Tribunal, Gurgaon (in short “the Tribunal”) assessed compensation to the tune of Rs. 6,30,034/-, detailed hereinbelow:-

<i>S.No.</i>	<i>Head of compensation</i>	<i>Amount</i>
1	Medical expenses	Rs, 3,26,034/-
2	Expenses for transportation	Rs. 15,000/-
3	Expenses for special diet	Rs. 10,000/-
4	Loss of earning during the period of treatment/admission	Rs. 20,000/-
5	Loss of future prospects on account of 34% permanent disability	Rs. 2,04,000/-
6	Pain, suffering and trauma as a consequence of grievous injuries	Rs. 30,000/-
7	Loss of amenity /marriage prospects	Rs. 25,000/-

<i>S.No.</i>	<i>Head of compensation</i>	<i>Amount</i>
	Total	Rs. 6, 30,034/-

Counsel for the appellant would submit that compensation awarded by the Tribunal under various heads except medical expenses needs enhancement. It is argued that the Tribunal has assessed income of the injured at Rs. 5000/- per month but income on the basis of minimum wage of a casual worker was approximately Rs. 5400/- per month at the relevant time. It is further argued that the Tribunal has assessed loss of future income by adopting a multiplier method but his functional disability is taken as 20% as against functional disability assessed by the medical board to the extent of 34%.

The injured victim sustained multiple injuries and remained under treatment in different hospitals upto 30.11.2013. It is further argued that in view of nature of injuries sustained and period of treatment as an indoor patient, compensation awarded under various other heads needs enhancement.

Counsel representing the insurance company has supported the award with the submission that the Tribunal has assessed just and reasonable compensation, in the light of materials on record.

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

The accident in question took place on 11.9.2013. The claimant examined Dr. Parveen Gupta, Neurologist, Artemis Hospital, Gurgaon. Dr. Parveen Gupta tendered into evidence his affidavit Ex. PW1/A. A relevant extract therefrom reads as follows:-

“1. That the patient Lilu, 24 years male r/o vill. Pahari, Distt.

Gurgaon was admitted on 12.9.2013 with alleged history of RTA with polytrauma in unconscious state on ventilation. The accident took place allegedly near Petrol Pump, Pataudi Rewari road and MLC made at Civil Hospital, Pataudi.

Patient had avulsion of right eye, CLW near lip, laceration near left eye, Sutured wound over abdomen and bleeding wound with deformity in right leg. He was given blood transmission. CT & X-Ray was done.

Right eye enucleation was done.

Conservative treatment was done for hemorrhage in brain and abdominal injury.

Multiple facial fracture and leg fracture were planned for treatment. Gradually the patient was taken on ventilator and became conscious and he went LAMA left against medical advise on 16.9.2013.”

It has been proved on record that the injured remained admitted in Artemis Hospital, Gurgaon from 12.9.2013 to 16.9.2013, from 16.9.2013 to 2.10.2013 in Safdarjung Hospital, New Delhi and from 10.10.2013 to 24.10.2013 and 22.11.2013 to 30.11.2013 in PGI MS, Rohtak. The Tribunal compensated the injured-victim for expenses on treatment on the basis of bills/documents exhibited on record.

The Tribunal has awarded an amount of Rs. 20,000/- for loss of income in regard to period of treatment and recovery. Taking into consideration income of the deceased at Rs. 5400/- per month coupled with period of hospitalization and time for recovery, the appellant is entitled to loss of income for a period of four months to the tune of **Rs. 21,600/-**.

The Tribunal has assessed loss of future income qua disability to the tune of Rs.2,04,000/- by adopting a multiplier method. Dr. Poonam

Goyal, Medical Officer, Eye Specialist, General Hospital, Gurgaon PW-7 was examined to prove disability suffered by the victim and disability certificate Ex. P-11. A bare reading of statement of Dr. Poonam Goyal would indicate that the injured suffered disability to the extent of 34% in relation to whole body which also include disability of 30% on account of right eye vision. There is no evidence led by the respondents or for that matter by the insurance company to counter evidence of Dr. Poonam Goyal with regard to functional disability suffered by the victim. The Tribunal has not assigned any reason as to why the functional disability has been reduced to 20% for assessing loss of future income. Counsel for the insurance company has not made any submission to justify assessment of loss of future income on the basis of functional disability to the extent of 20%. By taking into consideration income of the deceased at Rs. 5400/- per month and functional disability to the extent of 34%, loss of future income is assessed at Rs. $5400 \times 12 \times 17 \times 34\% = \text{Rs. } 3,74,544/-$.

The victim sustained multiple injuries, He remained admitted on four occasions in three different hospitals. He was lastly discharged from the hospital on 30.11.2013 meaning thereby that he remained under treatment as an indoor patient for a period of about 2½ months with intermittent gaps. In the circumstances, compensation awarded by the Tribunal for expenses on transportation, special diet, pain and suffering and trauma as a result of grievous injuries is enhanced to **Rs. 25,000/-, 20,000/- and 50,000/-** respectively.

The Tribunal has awarded an paltry sum of Rs. 25,000/- for loss of amenities/marriage prospects. The injured victim suffered functional

disability to the extent of 34%, he has suffered right eye vision to the extent of 30%. Taking into consideration functional disability suffered by the victim, it is expedient in the interest of justice that the injured is awarded an amount of **Rs. 1.5 lakhs** qua loss of amenities of life and matrimonial prospects. In view of the above, total compensation comes to **Rs. 9,67,178/-** and the additional amount is **Rs. 3,37,144/-**. The additional amount shall carry 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.

(Rekha Mittal)
Judge

17.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No