In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 7518 of 2014
Date of Decision: 17.11.2017

Rajesh alias Raju ......Appellant

Versus

Sameer Tandon and another ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Kunal Dawar, Advocate
for the appellant.

Mr. R.C.Gupta, Advocate
for respondent No. 2.

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ANITA CHAUDHRY, J

This is the claimant's appeal seeking enhancement in the award dated 25.10.2013 passed by Motor Accident Claims Tribunal, Faridabad.

The claimant met with an accident on 17.11.2011 which led to amputation of the upper limb. The medical board had assessed the disability of 70%. The Tribunal assessed the income to be Rs. 2,000/- per month and made an addition of 50% and applied the multiplier of 18. It rejected the income tax returns produced by the claimant and allowed Rs. 6,48,000/- for loss of future earnings on account of permanent disability. It separately assessed the quantum for the disability by awarding Rs. 2,000/- for each percentage of disability and the following compensation was allowed:-

(i)	Medical expenses	Rs.	10,17,063/-
(ii)	Pain and Suffering	Rs.	1,00,000/-
(iii)	Special diet & transportation	Rs.	55,000/-
(iv)	Attendant	Rs.	5,000/-

(v)	Disability (70%)	Rs.	1,40,000/-
(vi)	Loss of future earnings	Rs.	6,48,000/-
(vii)	Loss of enjoyment of life and amenities	Rs.	50,000/-
	Total	***Rs.***	***20,15,063/-***

The submission on behalf of the appellant is that the income tax returns were not considered and though they had received the amount spent on the treatment but there were certain heads which were not included. It was urged that minimum wages could be taken if other evidence was not being considered and the minimum wages stood at Rs. 4643.89 per month in July 2011. It was urged that no amount had been awarded for loss of marriage prospects and the right arm of the injured had been affected and there should be an addition towards future prospects as well. Counsel further contends that though the Tribunal had awarded Rs. 5,000/- for transportation charges and Rs. 50,000/- for attendant and Rs. 10,000/- as special diet but it is not correctly assessed in para 45 of the judgment.

On the other hand the submission is that the Tribunal has calculated the amount twice and a perusal of para 45 of the judgment shows that the Tribunal had allowed Rs. 1,40,000/- for the disability and had allowed Rs. 6,48,000/- for loss of future earnings and the compensation for disability is only granted with respect to the loss in the future earnings and the claimant had been sufficiently compensated.

The Tribunal had taken the income and had ignored the income tax returns and has recorded its reasons which I would concur but the minimum wages were higher than what has been taken and in that case I would take the minimum wages which were Rs. 4643/- and an addition of 40% will have to be made towards future prospects. Therefore, taking the income at Rs. 4643/-, the addition would be Rs. 1857/-. The total income would be Rs. 4653 + 1857 = Rs. 6500/-. Since there was disability to the extent of 70%, the compensation would come to Rs. 4550/- x 12 x 18 = 9,82,800/-. Therefore, the compensation payable is as under:-

(In Rs.)

1.	Disability	9,82,800/-
2.	Attendant charges (as given by the Tribunal)	50,000/-
3.	Special diet	25,000/-
4.	Transportation	5,000/-
5.	Pain and suffering	1,00,000/-
6.	Loss of amenities	1,00,000/-
7.	Loss of marriage prospects	1,00,000/-
8.	Actual medical expenses	10,17,063/-
	Total	***23,79,863/-***

The Tribunal had allowed Rs. 20,15,063/- which would be deducted and the remaining amount i.e. Rs. 3,64,800/- would be payable with interest @ 6% from from the date of filing of the appeal till the amount is actually paid.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 17, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No