IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7174 of 2015 (O&M)
Date of Decision: 24.10.2017

Master Bhupinder Singh

...Appellant(s)

Versus

Mandeep Singh and others

... Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate
for the appellant.

Mr. R.N. Singla, A.A.G., Haryana.

ANITA CHAUDHRY, J.

This is the claimants appeal seeking enhancement in the award dated 12.03.2015 passed by the Motor Accident Claims Tribunal, Chandigarh.

Bhupinder Singh was a student of 4^{th} Class in SSN Public School Dadumajra, U.T. Chandigarh but was 14 years old when he met with an accident on 02.09.2012. He suffered a fracture of the Right Femur and fracture of both bones of the legs. It was claimed that Rs.1 lac was spent on the treatment. The Medical Officers had assessed the disability at 50% and had noted that there was shortening of the leg. The Tribunal separately assessed and allowed the medical expenses and the amount paid for physiotherapy of Rs.3,46,346/- was added. The notional income of the child was taken as Rs.7,000/- and the multiplier method was used to calculate and compensation of Rs.5,88,000/- was allowed. The total amount allowed was as under:-

S. No.	**Heads of claims**	**Amount awarded**
1	Medical expenses on treatment	Rs.3,46,346/-
2	Loss of income	Rs.5,88,000/-
3	Special diet	Rs.25,000/-
4	For pain and suffering	Rs.25,000/-
5	Loss of marriage prospects	Rs.25,000/-
6	Loss of Amenities	Rs.25,000/-
	Total	**Rs.10,34,346/-**

The submission on behalf of the appellant is that the income has been taken on the lower side and there should have been some addition towards future prospects and the amount allowed on the miscellaneous heads is on the lower side. It was urged that no separate amount has been allowed for the attendant or for transportation and the claimant was entitled to increase on all the heads. It was urged that since there was shortening of leg, it would be impossible for him to get employment in the Police Force or Army. Reliance was placed upon '***Mallikarjun Vs. Divisional Manager, National Insurance Co. Ltd. and another, 2013 ACJ 2445***' and '***V. Mekala Vs. M. Malathi and another 2014(2) RCR (Civil)***'.

On the other hand the submission on behalf of the Insurance Company is that the Apex Court in ***Mallikarjun's*** case (supra) had held that if the disability was upto 60% then the amount allowed towards disability should be Rs.3 lacs and a higher amount has already been awarded and in that case there was shortening of a leg and facts were similar. It was also urged that there were three persons going on a motorcycle and the entire liability could not be fastened on the offending vehicle and some liability should have been placed upon the driver of the motorcycle as he was carrying more than two riders. Reliance was also placed upon '***National Insurance Company Ltd. Vs. Amrik Singh and others VOL. CL.XXXVI(2017-2) The Punjab Law Reporter***'.

Responding to the arguments, the submission made on behalf of the appellant is that there is no appeal filed by the Insurance Company, therefore, there can be no deduction.

I have gone through the judgment relied upon by the claimant in '***Master Akash Vs. Gurdev Singh Mohal and others passed in FAO No.2009 of 2006'*** in which a child of 11 years was to be in a vegetative state and in those circumstances, the Coordinate Bench had allowed compensation for medical expenses for the rest of his life. The authority is not applicable to the facts of the present case. Each case has to be decided on its own facts. In ***V. Mekala's*** case (supra), the victim was a brilliant student and she had sustained fracture on both the legs and could walk only with the support of crutches and on those facts the higher compensation was awarded.

In the present case, the claimant was stated to be 14 years old but he was a student of the 4th class. No record was placed to show how he was fairing before the accident. There was no evidence to show that he was not able to attend the school for a number of years. The admission in the hospital was not at one stretch but for a short period of 2-4 days at different times. The Tribunal had rightly assessed the disability and I am not inclined to make an addition even for the future prospects as the notional income has already been taken on the higher side but I would apply the multiplier of 15 instead of 14 and the calculation would, thus, be Rs.3500x12x15=Rs.6,30,000/-.

The amount that would be payable would be as under:-

1	Actual medical and physiotherapy expenses	Rs.3,46,000/-
2	Loss of disability	Rs.6,30,000/-
3	Special diet	Rs.25,000/-
4	Pain and suffering	Rs.2,00,000/-
5	Loss of marriage prospects	Rs.1,00,000/-
6	Loss of amenities	Rs.50,000/-
7	Transportation	Rs.25,000/-
Total		**Rs.13,76,000/-**

The Tribunal had allowed Rs.10,34,346/- which would be deducted and the remaining amount would be paid by the Insurance Company with interest @ 6% from the date of filing of the appeal. The amount would be kept in FDR in the name of the claimant.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

October 24, 2017
ps-I

Whether Reasoned/Speaking **Yes/No**

Whether Reportable **Yes/No**