**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**FAO No. 796 of 2015 (O&M)**
**Date of Decision: July 19, 2017**

**Jitender**

..Appellant(s)

**Versus**

**Raghubir Singh and others**

...Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Rishav Jain, Advocate
for the appellant.

Mr. Satpal Dhamija, Advocate
for respondent no.3-insurance company.

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**ANITA CHAUDHRY, J.**

This is the claimants appeal seeking enhancement in the award dated 01.10.2014, passed by the Motor Accident Claims Tribunal, Palwal.

Counsel for the appellant at the outset urges that the Tribunal had rejected the Bill Ex. P-40, which was for the sum of Rs.2,20,000/-. Counsel further submits that the claimant had lost his job and there was loss of earning and no amount had been allowed for the attendant and the amount allowed for special diet is on the lower side. The counsel also submits that when there is disability then an addition has to be made towards future prospects.

The submission on the other hand is that there was no evidence that the claimant had lost his job and it is only the leave period which has been taken for the purposes of calculating the loss of earning and the functional disability was taken as 10% and rightly so. The counsel further submits that the bills were exaggerated and the Tribunal has recorded its reason for the same. The counsel submits that a person who was earning Rs.5,000/- per month and was working as a Safai Karamchari would not be able to afford a private hospital which was charging Rs.2,500/- per day for the room. The counsel further submits that it has been shown that the claimant was operated thrice but the discharge slip does not refer to three operations and the Tribunal has not completely ignored the bill and instead of Rs.2,20,000/- the Tribunal had allowed Rs.1 lac for the treatment taken in the private hospital.

The disability certificate shows the disability to the extent of 20%. There was amputation of the forefoot. The functional disability would be 15%. An addition of 50% in the income towards future prospects will have to be made as per principle laid down in V. Mekala Vs. M. Malathi and another 2014(11) SCC 178.

The claimant was initially taken to a civil hospital. There is no evidence that he was referred from civil hospital to a private hospital. The claimant is a Safai Karamchari and was earning Rs.5,000/- per month. He is stated to have taken treatment in a private nursing home where the room rent was Rs.2,500/- per day and the appellant is shown to have admitted for 32 days. The Tribunal had found the bills to be exorbitant and had given its reasons for rejecting major part of it from para no.21 onwards and I fully agree with the reasoning given therein and there is no reason to make any addition in the bills Ex. P-40. However, I would make some addition on some heads and allow the following increase taking income to be Rs.7,500/- (after addition of 50% as future prospects):-

| | | |
|---|---|---|
| 1. | Disability (1125 x 12 x 17) | Rs.2,29,500/- |
| 2. | Attendant Charges | Rs.10,000/- |
| 3. | Pain and suffering (more) | Rs.25,000/- |
| 4. | Loss of amenities (more) | Rs.15,000/- |
| | **TOTAL** | **Rs. 2,79,500/-** |

The appellant would be entitled to the enhanced amount of Rs.2,79,500/- with interest @ 6% from the date of filing of the appeal till realization. The award is modified.

The appeal is partly allowed.

July 19, 2017 **(ANITA CHAUDHRY)**
sunil **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No