

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.3241 of 2009 (O&M)

Date of Decision:31.10.2018

Anurag

...Appellant(s)

Versus

Jameel Ahmad and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Kulbhusha Sharma, Advocate for the appellant.
Mr.D.R.Bansal, Advocate for respondent No.3.

ANIL KSHETARPAL, J.

The claimant is in the appeal seeking enhancement of compensation. He was a student of Mechanical Engineering when he met with an accident on 27.10.2005. The appellant was 20 years of age at the time of accident. The Medical Board has assessed permanent disability to the extent of 45%. The operative part of the Medical Certificate Ex.23 extracted as under:-

*“D.O.I 27-10-05 R.No.44 DT 21.03.07 OPERATED CASE
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KNEE TREATMENT RECORD & X-RAY SEEN”*

The learned Motor Accident Claims Tribunal has clubbed three heads namely Pain and Suffering, Future Prospects and Permanent Disability and granted Rs.2 lacs. The Tribunal has not taken care to work out loss of income for entire life due to permanent disability. No evidence has been produced on file to prove that this permanent disability is likely to reduce. As noted above, the accident took place in October 2005. The

appellant on account of accident lost one year of study even no amount has been awarded for the aforesaid loss.

Still further, the Tribunal has not awarded any amount for helper, which would be required, through out the life. An Engineering Graduate, who ultimately completed his study of Engineering in the year 2010, would at least be entitled to earning a sum of Rs.10,000/- per month. Keeping in view that he was undergoing study for becoming a Mechanical Engineer, the Court can take judicial notice of the fact that a Mechanical Engineer normally does not work while sitting on the chair, thus, the loss of income is to be calculated taking loss of income at 45% of the expected income. Thus, the loss comes to Rs.4,500/- per month.

Since the appellant was a young boy would have also progressed in life and his income would have also increased, therefore, there has to be some addition on account of increase in income on account of future prospects.

Taking into consideration the aforesaid facts, the award passed by the Motor Accident Claims Tribunal stands modified. The loss of income of the deceased is assessed at Rs.5625/- per month including future prospects. $[4500 + (4500 \times 25\%)]$. After applying the multiplier of 18, the amount would come to Rs.12,15,000/- (Rs.5625X18X12). The learned Tribunal did not award any compensation towards helper. However, this Court feels that an amount of Rs.50,000/- in lump sum would meet the ends of justice for helper. Thus, total amount payable to the appellant/claimant comes to Rs.12,65,000/- (Rs.12,15,000/- + Rs.50,000/-). Enhanced amount payable to the claimants after adjusting the amount awarded by the Tribunal under the aforesaid three heads comes to Rs.10,65,000/- (Rs.12,65,000/-

Rs.2,00,000/-). It is pertinent to mention here that compensation awarded under treatment as well as special diet is not disputed.

Claimant shall also be entitled for interest @ 7.5% per annum on the enhanced amount, i.e. Rs.10,65,000/- from the date of filing of petition till realization.

With the above modification in the impugned award dated 14.1.2009 passed by the Tribunal, the appeal filed by the claimants is allowed. Pending application(s), if any, shall also stand disposed of.

31.10.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No