

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1819 of 2011 (O&M)

Date of Decision:- 05.02.2018

Sumer Singh

....Appellant

Versus

Rajesh alias Budh Ram & Ors.

...Respondents

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr. Ajit Sharma, Advocate, for the appellant.

None for respondent Nos. 1 and 2.

Mr. M.B. Jain, Advocate, for respondent No.4.

REKHA MITTAL, J. (Oral)

The injured victim is in appeal seeking enhancement of compensation of account of injuries sustained in a motor vehicular accident that took place on 13.09.2006.

The Motor Accidents Claims Tribunal, Rewari (for short, 'the Tribunal') awarded compensation to the tune of ₹77,000/- detailed hereunder:-

Expenses on medical treatment = ₹42,000/-

Pain and suffering = ₹15,000/-

Transportation, attendant
and special diet = ₹20,000/-

Counsel for the appellant has submitted that the victim suffered disability to the extent of 54% and is entitled to loss of future income qua disability by applying multiplier method. No compensation has been awarded for loss of income during the period of treatment and recovery as

well as loss of amenities of life. Compensation awarded for pain and sufferings and consolidated sum of Rs.20,000/- for Transportation, attendant and special diet is on lower side and needs enhancement.

Counsel representing the insurance company has submitted that the injured suffered disability qua a particular limb, therefore, he is not entitled to loss of future earnings @54%. Adequate compensation has been allowed by the Tribunal under various heads.

This court on 07.02.2014 remitted the matter to the trial Court with a direction that the trial Court shall give one effective opportunity to the appellant to prove the disability afresh and also grant one effective opportunity to the insurance company for leading evidence in rebuttal. In pursuance of the directions issued by this Court, a report has been received from the Tribunal on the basis of testimony of Dr. Ashok Saini, Sr. Medical Officer, General Hospital, Rewari. Dr. Ashok Saini has deposed that on 27.08.2014, he along with other members of the Medical Board examined Sumer Singh and assessed his disability at 54% on account of post traumatic marked restricted movements of right knee with partial loss of stability with pain and shortening. He has proved disability certificate Ex.PX.

A relevant extract from his cross-examination reads thus:-

“A little improvement in disability with passage of time and physiotherapy cannot be ruled out. It is correct that disability pertains to right lower limb only. However, it will affect the performance of the whole body.”

Keeping in view the report submitted by the Tribunal when examined in the light of testimony of Dr. Ashok Saini, I find merit in

contention of the appellant that he is entitled to loss of future earning on account of disability by applying multiplier method.

As per plea of the claimant, he was earning Rs.3000/- per month. However, he has failed to adduce clear much less cogent evidence with regard to his avocation and income. The occurrence in question took place on 13.09.2006. Taking a clue from the minimum wage available to an unskilled labour at the relevant time, income of the claimant is assessed as ₹2500/- per month. He shall be entitled to benefits of future prospects @25%. His functional disability is assessed at 30%. The victim was 44 years old at the time of occurrence and the appropriate multiplier would be 14. In this manner loss of future income comes to $\text{₹}2500 \times 12 \times 14 + 25\% \times 30\% = \text{₹}1,57,500/-$ (4,20,000 + 1,05,000 = 5,25,000 x 30% = 1,57,500).

Dr. Birender Yadav, PW2 has deposed that the injured was admitted in his hospital on 13.09.2006 with fracture of upper end of tibia right side. That fracture was managed by screw fixation under spinal anesthesia. He was discharged on 23.09.2006. The injured got treatment as an indoor patient for a period of 10 days. Taking into consideration the nature of injuries sustained which rendered him disable to the extent of 54% qua his right lower limb, claimant is entitled to loss of income for a period of four months in regard to period of treatment and recovery. Accordingly, he is held entitled to an amount of ₹10,000/- for loss of income under this head.

Compensation awarded by the Tribunal for pain and sufferings, expenses on medical treatment and lump sum for expenses on

transportation, attendant and special diet is affirmed. However, claimant shall be entitled to an amount of ₹30,000/- for loss of amenities of life. In this manner, total compensation comes to ₹2,74,500/-. The additional amount of ₹1,97,500/- (₹2,74,500/- - ₹77,000/-) is payable with interest @7.5% per annum from the date of petition till realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

February 05, 2018
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No