

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO 5082 of 2011 (O&M)
Date of decision : 27.11.2018

Joginder*Appellant*
Versus
Bhoop Singh and another*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Rakesh Lathwal, Advocate
for the appellant

Ms Jaspreet Kaur, Advocate
for respondent No 2

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Rekha Mittal, J. (Oral)

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 17.02.2010.

The Tribunal has awarded compensation of Rs.2,50,000.00, detailed hereunder:-

Disability and loss of income	Rs.1,75,000.00
Medical Bills	Rs.20,000.00
Pain and suffering	Rs.25,000.00
Future prospects	Rs.25,000.00
Miscellaneous	Rs.5,000.00

Counsel for the appellant would argue that as the injured has suffered permanent disability to the extent of 80% on account of amputation of right arm below elbow, he is entitle to compensation qua disability by applying multiplier method in the light of judgment of

Hon'ble the Supreme Court ***Raj Kumar vs Ajay Kumar and others, 2011***

(2) R.C.R.(Civil) 101. Compensation allowed by the Tribunal under various heads is inadequate and needs enhancement.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submissions that there is no evidence on record with regard to functional disability caused due to amputation of right arm below elbow nor there is evidence with regard to avocation of the injured prior to the occurrence.

I have heard counsel for the parties, perused the paper book and records.

There is no clear evidence on record with regard to avocation of the injured prior to the occurrence. The doctor examined to prove disability has not deposed as to how disability to the extent of 80% is to be treated for computing functional disability. Assuming that the injured was a daily wager; his income is assessed at Rs.4,200.00 per month on the basis of minimum wage and accordingly disability to the extent of 50% qua loss of earning and by applying multiplier of 17 on the basis of his age, loss of income qua disability is assessed at Rs.4,28,400.00 (4200 x 12 x 17x50/100). An amount of Rs.1,75,000.00 allowed by the Tribunal under the head disability and loss of income shall be adjusted out of loss of income.

The Tribunal has awarded Rs.20,000.00 on the basis of medical bills and Rs.25,000.00 for pain and sufferings and the same is affirmed. However, the claimant shall be entitle to Rs.70,000.00 towards loss of amenities of life and matrimonial prospects. A sum of Rs.30,000.00 for future prospects and miscellaneous allowed by the Tribunal shall be

adjusted out of Rs.70,000.00. The claimant is allowed additional sum of Rs.10,000.00 for expenses of transportation and services of an attendant. In this view of the matter, additional amount of Rs.3,03,400.00 shall be payable to claimant with interest @ 7.5% per annum from the date of petition till realization. All other terms and conditions of the award shall remain intact.

(Rekha Mittal)
Judge

27.11.2018
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