

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

FAO No.3313 of 2012 (O&M)

Date of decision: 05.12.2018

Jagdish Chand

... Appellant

Versus

Sandeep Pal Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Yash Pal Thakur, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.14503-CII of 2012

Prayer in this application is for condonation of delay of 155 days in filing the appeal.

In view of averments made in the application supported by an affidavit of the appellant coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 155 days in filing the appeal is condoned subject to the condition that the claimant shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The claimant is in appeal seeking enhancement of

compensation on account of injuries sustained by him in a motor vehicular accident that took place on 02.07.2008.

The Tribunal has awarded compensation of Rs.6,38,818/-, detailed hereunder:-

1. Loss of future income	Rs.5,40,000/-
2. Expenses on medicine and treatment	Rs.63,818/-
3. Pain and sufferings	Rs.20,000/-
4. Transportation expenses	Rs.10,000/-
5. Nutritious diet	Rs.5000/-

Counsel for the claimant would argue that as the injured has been rendered 100% disable on account of sustaining spine injury, he is entitle to loss of income @ 100% plus increase in income for future prospects. He has further argued that claimant may be allowed compensation qua services of an attendant throughout his life, loss of amenities of life and adequate compensation under the heads for which no amount has been allowed by the Tribunal.

Counsel representing the insurance company, on the contrary, has supported the assessment.

The disability certificate Ex.PW3/A records that the claimant suffered 100% disability in relation to his spine with bowel and bladder involvement. Dr. Sudesh Pebam PW4 has deposed that there is no chance of improvement and claimant cannot walk without support. Taking into consideration the nature and extent of disability suffered by the victim when examined in the light of judgment of Hon'ble the Supreme Court **Raj**

Kumar Vs. Ajay Kumar and others, 2011(2) RCR (Civil) 101, I find merit in contention of the claimant that he is entitle to future loss of income by treating his disability to the extent of 100%. Taking into consideration the minimum wage available at the relevant time, income of the deceased is assessed at Rs.4420/- per month and by allowing addition for future prospects @ 40% and multiplier of 15, loss of future income is calculated at Rs.11,13,840/- $[(4420 \times 12 \times 15) + (40\% \text{ future prospects})]$.

With regard to services of an attendant, claimant shall be entitle to a sum of Rs.3,60,000/- $(2000 \times 12 \times 15)$.

The Tribunal has allowed reimbursement of medical expenses on the basis of bills Exs.CW-1/1 to CW-1/52 to the tune of Rs.63,818/-. Claimant is allowed Rs.65,000/- under this head. The compensation for pain and sufferings would be Rs.1,00,000/- and loss of amenities of life to the extent of Rs.1.5 lakh. Compensation allowed by the Tribunal towards nutritious diet is affirmed. However, claimant is awarded an amount of Rs.30,000/- towards expenses on future treatment and Rs.20,000/- for transportation charges.

Total compensation is Rs.18,43,840/- and the additional amount is Rs.12,05,022/- $(18,43,840 - 6,38,818)$, payable with interest @7.5% per annum from the date of petition till realization, except for the period of delay of 155 days in filing the appeal. The additional amount except an amount of Rs.1,00,000/- shall be invested in fixed deposit. An amount of Rs.1,00,000/- shall be released forthwith. Claimant shall also be

entitle to withdraw amount of Rs.1,00,000/- after expiry of each year in order to maintain himself and meet expenses of his medical needs.

The appeal is partly allowed in the aforesaid terms.

05.12.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No