

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

101

FAO No.10128 of 2014

Date of Decision : 01.08.2018

Rahul minor son of Krishan @ Billu

.....Appellant

Versus

Sonu and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Ashwani Kumar Antil, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.3-insurance company.

B.S. WALIA, J. (Oral)

1. Prayer is for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Sonapat (hereinafter referred to as the Tribunal) to the appellant who was six years old at the time he received injuries in a motor vehicular accident on 22.11.2012.

2. Appellant sustained injuries, as a result of which he suffered 30% disability because of tibialization of left fibula with stiffness of left ankle. The appellant also remained hospitalised as an indoor patient for one and a half month. The learned Tribunal after taking into account the injuries to the appellant and resultant 30% disability as also of his having to live with the said disability for the rest of his life, awarded compensation of ₹2,33,000/- i.e. ₹73,000/- on account of costs incurred on medicines, ₹50,000/- on account of pain and sufferings, ₹1,00,000/- on account of 30% disability besides ₹10,000/- as transportation charges.

3. Learned counsel for the appellant contends that the amount awarded on account of 30% disability is grossly inadequate since 30% disability would be treated as 15% permanent disability for the whole body in view of the decision in Raj Kumar Vs. Ajay Kumar, 2011 ACJ, 1 and the compensation payable is to be worked out by taking into account the minimum wages payable for the relevant period. On the basis of the same, learned counsel contends that the compensation on account of disability would have to be worked out on minimum wages of ₹4800/- per month as payable to an unskilled labourer. Learned counsel contends that in said eventuality the appellant would be entitled to a sum of ₹1,29,600/- on account of 15% disability to the whole body (i.e. $15\% \text{ of } 4800 = 720 \times 12 \times 15 = ₹1,29,600/-$).

4. Learned counsel for the respondent fairly conceded the claim on account of disability to be worked out as per the minimum wages during the relevant period of time i.e. ₹4800/- and in the circumstances the compensation payable to the appellant on account of 15% permanent disability to the whole body working out to ₹1,29,600/-.

5. Learned counsel for the appellant further contends that although ₹50,000/- was awarded on account of pain and sufferings, no amount was awarded for engaging services of attendant and for special diet, although, in paragraph No.19 of the award, reference was made to the entitlement of the appellant to compensation on account of pain and sufferings, services of attendant and special diet etc. Learned counsel states that in the circumstances, the appellant is entitled to award of compensation for engaging services of attendant as also for special diet to the tune of ₹30,000/- on each head.

counsel for respondent No.3 who states that the amount claimed is in excess of the entitlement.

7. Having considered the submissions of learned counsel for the parties, I am of the view that the appellant is entitled to ₹15,000/- for engaging services of attendant and ₹15,000/- for special diet.

8. Lastly, learned counsel contended that no amount had been awarded to the appellant on account of diminishing of marriage prospects. Learned counsel contended that a minimum of ₹1,00,000/- ought to have been awarded on account of diminishing of marriage prospects.

9. Learned counsel for the respondent on the other hand vehemently contended that the injured was only six years old, therefore, in the circumstance, amount claimed was exorbitant.

10. I have considered the submissions of learned counsel for the parties and am of the view that interest of justice would be met if a sum of ₹21,000/- is awarded on account of diminishing of marriage prospects.

11. In view of the position as noted above, compensation payable works out as under :-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
1	Cost of medicines	₹73,000/-	₹73,000/-
2	Pain and sufferings	₹50,000/-	₹50,000/-
3	30% disability (15% permanent disability to the whole body)	₹1,00,000/-	₹1,29,600/- (i.e. 15% of 4800 = 720 x 12 x 15)
4	Transportation	₹10,000/-	₹10,000/-
5	Service of attendant charges	Nil	₹15,000/-
6	Special diet	Nil	₹15,000/-
7	Loss of diminishing of marriage prospects	Nil	₹21,000/-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
	Total	₹2,33,000/-	₹3,13,600/-

12. Accordingly, as against the sum of ₹2,33,000/- awarded by the learned MACT, Sonapat, the appellant is held entitled to ₹3,13,600/- along with interest @ 7.5% w.e.f. the date of filing of the claim petition till payment, less amount if any already paid.

13. Accordingly, award is modified and appeal is allowed to the extent as noted above.

August 01, 2018
sandeep

(B.S.Walia)
Judge

Whether speaking/reasonedYes/No

Whether ReportableYes/No