

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

FAO-2125-2013 (O&M)
Date of decision: 17.01.2018

JYOTI RAM

...Appellant

Versus

RAJESH KUMAR AND ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. B.S. Dhillon, Advocate
for the appellant.

Mr. V.K. Garg, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

The injured is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 28.06.2011.

The Tribunal has awarded compensation to the tune of Rs.86,000/-, detailed hereunder:-

1. Medical expenses	Rs.25,000/-
2. Pain and sufferings	Rs.25,000/-
3. Nutritious diet	Rs.6000/-
4. On account of disability	Rs.30,000/-

Counsel for the appellant has submitted that the injured suffered fracture of femur right side that rendered him disable to the extent

of 40%, proved by Dr. Amrish. It is further submitted that compensation awarded by the Tribunal qua disability to the extent of 15% @ Rs.2000/- per percent is on lower side and the claimant may be allowed future loss of income by applying multiplier method. Another submission made by counsel is that the Tribunal has not awarded any compensation for loss of income during the period of treatment and recovery, services of an attendant, transportation and loss of amenities of life.

Counsel representing the insurance company has supported the award.

There is no dispute that the injured remained hospitalised w.e.f. 28.06.2011 to 02.09.2011 i.e. for a period of more than 2 months. The injuries sustained by him resulted in post traumatic stiffness (right knee) with shortening of leg to the extent of 1.5 inch. There is no clear evidence available on record with regard to avocation and income of the victim. Taking a clue from the minimum wage available at the relevant time coupled with age of the victim who was 22 years old, income of the victim is assessed at Rs.4500/- per month. He is awarded loss of income for a period of four months in regard to period of treatment and recovery. Accordingly, claimant is held entitled to an amount of Rs.18,000 i.e. Rs.4500 x 4, for loss of income of the period of treatment and recovery.

Perusal of the disability certificate Ex.P5 would reveal that there is shortening of leg to the extent of 1.5 inch. It is also opined by the medical board that disability is likely to improve. As the medical board has

assessed disability both qua post traumatic stiffness of right knee and shortening of leg, it appears that the opinion with regard to likely to improve is in respect of stiffness of right knee because shortening of leg cannot improve with passage of time. Under the circumstances, functional disability of the victim assessed by the Tribunal to the extent of 15% is affirmed. Taking into consideration income of the victim and functional disability suffered by him, he is entitled to future loss of income to the tune of Rs.1,45,800/- i.e. Rs.4500 x 12 x 18 x 15%. The claimant is allowed an amount of Rs.10,000/- for services of an attendant and transportation. He is awarded another sum of Rs.15,000/- for loss of amenities of life.

The total compensation comes to Rs.2,44,800/- and the additional amount is Rs.1,58,800/- (2,44,800 – 86,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

17.01.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No