

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

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FAO-1110-2015 (O&M)
Date of decision: 10.10.2018

BARINDER SINGH

... Appellant

Versus

BHARAT GUPTA & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vikram Bali, Advocate for the appellant.

Mr. Ashwani Talwar, Advocate and
Ms. Sanya Sapra, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

Barinder Singh, who is leading a vegetative life being in coma due to sustaining injuries in a motor vehicular accident that took place on 08.12.2010 has filed the present appeal through his mother for enhancement of compensation.

The Tribunal has awarded compensation of Rs.51,01,100/-, detailed hereunder:-

1. Medical expenses spent on treatment	Rs.7,29,100/-
2. Loss of income	Rs.24,48,000/-
3. Domestic help servant expenses	Rs.12,24,000/-
4. Future medical expenses, pain and suffering	Rs.5,00,000/-
5. Loss of amenities/disturbance of family life/love and affection	Rs.2,00,000/-

Counsel for the appellant would argue that as the injured has been rendered 100% disable and totally dependent upon others, he is entitle to loss of future income by extending benefit of addition in income for future prospects. Further argued that Tribunal has allowed compensation of Rs.12,24,000/- for expenses qua domestic help by applying multiplier of 17 but an appropriate multiplier is required to be applied by taking into consideration life expectancy of the victim. In support of his contention, he has relied upon judgment of this Court **Parveen Vs. Vikram and others, FAO No.308 of 2011, decided on 30.09.2015.**

Another submission made by counsel is that claimant may be allowed compensation for special diet and transportation etc.

Counsel representing the insurance company, on the contrary, would argue that the claimant has been duly compensated by the Tribunal.

Indisputably, the injured is in coma due to head injury sustained in the accident. The Tribunal has assessed loss of future income by taking into consideration the injured to be 100% disable. As the claimant has suffered total loss of income on account of 100% disability, he is entitle to benefit of addition in income for future prospects @ 40% in view of his age, less than 30 years. In this manner, claimant shall be entitle to additional amount of Rs.9,79,200/- with regard to future prospects under head loss of income.

The Tribunal has assessed compensation with regard to services of an attendant @ Rs.6000/- per month by adopting multiplier of 17 to the tune of Rs.12,24,000/-. Counsel for the claimant has urged that multiplier for calculating services of an attendant is required to be followed on the basis of judgment of this Court in **Parveen's case (supra)**.

This Court while allowing multiplier of 35 qua attendant charges has not taken into consideration judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** wherein Hon'ble the Supreme Court has noticed that lack of uniformity and inconsistency in awarding compensation has been a matter of grave concern. Every district has one or more Motor Accident Claims Tribunal/s. If different Tribunals calculate compensation differently on the same facts, the claimant, the litigant, the common man will be confused, perplexed and bewildered. If there is significant divergence among Tribunals in determining the quantum of compensation on similar facts, it will lead to dissatisfaction and distrust in the system. The Court has also taken note of certain observations made in **General Manager, Kerala State Road Transport Corporation v. Susamma Thomas, 1994 (2) SCC 176**, quoted thus:-

So the proper method of computation is the multiplier method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability, for the assessment of compensation.

In **Sarla Verma and others's case (supra)** which was later followed by three Judge Bench in **Reshma Kumari and others Vs. Madan Mohan and another, 2013(2) RCR (Civil) 660** and **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315**, the maximum multiplier of 18 is admissible where the victim is in the age group of 15 to 25 and 17 for the age group of 26 to 30 years. For assessing loss of future income in regard to disability suffered by the victim, multiplier of 17 has been allowed. I am unable to fathom that for the purpose of assessing compensation qua services of an attendant, the life expectancy alone can be the criteria and multiplier of more than 18 can be allowed. In this view of the matter, claimant cannot derive any advantage from the judgment in **Parveen's case (supra)**. I would hasten to add that the legislation has created an obligation that compensation should be just and reasonable to make good the loss as the money can do. At the same time, it cannot be a bonanza, source of profit or largesse. It is also pertinent to note that the victim had no children and his wife is stated to have left him due to unfortunate occurrence. In this view of the matter, multiplier adopted by the Tribunal for assessing compensation qua services of an attendant cannot be faulted with.

The claimant has been awarded a sum of Rs.5 lakh/- for future medical expenses, pain and sufferings. The amount would take care of special diet and transportation expenses. In view of the above, claimant shall be entitle to additional amount of Rs.9,79,200/- with interest @7.5% per annum from the date of petition till realization. The additional amount shall also be invested in fixed deposit in terms of the award passed by the Tribunal and disbursement thereof would also be subject to observations made in para 18 of the award.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

10.10.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No