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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2058 of 2015
Date of Decision: 29.11.2018

Talwinder Singh

-Appellant

Vs

Surinder Kumar and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashwani Arora, Advocate,
for the appellant.

Mr. Neeraj Khanna, Advocate, for
Mr. Ravinder Arora, Advocate,
for respondent No.3.

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RAJ MOHAN SINGH, J. (ORAL)

Appellant is aggrieved only to the extent of not granting future loss of income on account of permanent disability after his retirement and for attendant charges.

The accident took place on 02.11.2012 in which appellant had received fracture acetabulam left anterior wall, fracture on left hip and other multiple injuries. Appellant was treated in GMCH, Sector-32, Chandigarh.

The Tribunal while assessing compensation under different heads granted an amount of Rs.40,500/- towards loss of income for three months during which appellant remained confined to bed. An amount of Rs.25,000/- towards pain and sufferings, Rs.15,000/- towards special diet and Rs.10,000/- for loss of amenities in life was granted. In this way, a total compensation of Rs.90,500/- was awarded by the Motor Accident Claims Tribunal, Chandigarh along with interest @ 6% per annum from the date of filing of claim petition till final realization of the amount, if the amount was not paid within three months from the date of passing of the award. Provision for penal interest was also devised in the manner as suggested in the award.

As per findings recorded by the Motor Accident Claims Tribunal, Chandigarh income of the injured-appellant was assessed as Rs.13,500/- per month. The medical evidence on record would show that permanent disability of 15% was assessed in respect of left lower limb of the appellant in view of disability certificate which was proved by Dr. Ravi Kumar Preenja, PW3.

Learned counsel for the appellant refers to **Naresh Chandra Mytle vs Haryana State, 1995 ACJ 987** and contended that loss of future income on account of permanent disability after retirement can be given as the possibility of doing work by the injured after his retirement cannot be ruled out.

Since permanent disability qua lower limb was assessed to be 15%, therefore, I deem it appropriate to scale down the percentage of permanent disability to the tune of 8% while computing permanent disability qua whole body.

In view of law laid down in **Govind Yadav vs. New India Insurance Company Limited, 2011 (4) RCR (Civil) 817; K. Suresh vs. New India Assurance Company Limited and another, 2013(1) RCR (Civil) 312; S. Manickam vs. Metropolitan Transport Corporation Ltd, 2013(3) RCR (Civil) 696; G. Ravindranath @ R. Chowdary vs. E. Srinivas and another, 2013(3) RCR (Civil) 934; Rekha Jain vs. National Insurance Company Ltd., 2013(3) RCR (Civil) 996; Neerupam Mohan Mathur vs. New India Assurance Company, 2013(4) Law Herald (SC) 3422** and ***Y*****adava Kumar vs The Divisional Manager, National Insurance Company Ltd. and another, 2010(4) RCR (Civil) 155,** the compensation has to be awarded under two heads i.e. an amount of Rs.2,000/- per percentage for permanent disability and amount for loss of income on account of permanent disability. A distinction has to be drawn between the damages and the compensation. Damages are given for injuries which the injured suffered, whereas compensation is to be paid for atonement of the injury caused and to put back the injured as far as possible in the same manner as if, injury has not been received. The Court should be liberal in deciding quantum of compensation to be paid to the victim towards future loss of income on account of permanent disability.

It is a settled principle of law that loss of future income on account of permanent disability is not uncommon in law and the same can be granted.

In addition to the aforesaid component, permanent disability per percentage to the tune of Rs.2000/- can also be appreciated. Both the components run independent of each other. The loss of income on the basis of permanent disability to the tune of 8% would come to Rs.1080/- per month and Rs.12,960/- per annum (1080x12). The claimant would be entitled to multiplier of 9 as would be applicable at the age of 60% i.e. the age of retirement i.e. Rs.1,16,640/- (12,960x9).

Since permanent disability to the extent of 15% was assessed by the Board, therefore, component in respect of grant of Rs.2000/- per percentage has to be assessed on the basis of this permanent disability. In this way, an amount of Rs.30,000/- would be payable in addition to the aforesaid amount of Rs.1,16,640/-. The total tally would come out to be Rs.1,46,640/-.

During the period of admission in the hospital and period of confinement to bed, appellant must have engaged some attendant for which an amount of Rs.10,000/- can be assessed towards attendant charges.

The total computation of enhanced compensation would come to Rs.1,56,640/- which can be rounded of to Rs.1,57,000/-.

The aforesaid enhanced compensation would carry same percentage of interest as awarded by the Tribunal from the date of filing of claim petition till final realization of the amount.

Disposed of.

29.11.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No