

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

FAO-3928-2014 (O&M)
Date of decision: 30.05.2018

ROHIT (minor) through mother ... Appellant

Versus

CHARAN DASS @ CHARNA DASS & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arvind Bansal, Advocate for the appellant.

Ms. Radhika, Advocate for
Mr. Sanjeev Kodan, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The injured child aged about 4 years at the time of accident is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 29.04.2011.

The Tribunal has awarded compensation of Rs.3,02,780/-, detailed hereunder:-

1. Medical expenses	Rs.17,780/-
2. Transportation	Rs.5000/-
3. Pain and sufferings	Rs.20,000/-
4. Disability in percentage	80% (permanent) Rs.1,60,000/-
5. Reduction in life expectancy/loss of amenities	Rs.50,000/-
6. Loss of prospect of marriage/special damages	Rs.50,000/-

Dr. Rakesh Jindal from Jindal Orthopedic and Dental Hospital,

Kaithal PW1 has deposed that Rohit was admitted on 30.04.2011 on referral from GH, Kaithal. He was discharged on 07.05.2011. Patient was suffering from traumatic amputation of left leg and injury right foot. Dr. Kulbhushan Garg, Medical Officer, GH, Kaithal PW2 was examined to prove disability suffered by the victim. He has deposed that Rohit was examined on 08.08.2012 and he was found having amputation of left leg above knee and disability was assessed at 80%, reflected in the disability certificate Ex.PW2/A. In cross examination, he would depose that disability is permanent in nature. He denied the suggestion that with the help of artificial limb, the child can work in the fields.

Dr. Sandeep Saini, Medical Officer, GH, Kaithal PW4 proved medico legal report Ex.PW4/A and found the following injuries on his person:-

1. Crushed injury from middle 1/3rd of thigh. Left below knee bone exposed (below knee, no skin, no muscle was present) fresh bleeding was present and advised x-ray left thigh with knee and ortho. opinion.
2. A lacerated wound present on right foot of size 5 x 3 cm. Advised x-ray right foot and ortho. opinion.

When the case is examined in the light of judgment of Hon'ble the Supreme Court **Master Mallikarjun Vs. Divisional Manager, The National Insurance Co. Ltd. and another, 2013(4) RCR (Civil) 295**, claimant shall be entitled to an amount of Rs.5 lakh by treating his functional disability more than 60%, for pain and sufferings already undergone and to be suffered in future, mental and physical shock,

hardship, inconvenience and discomfort etc., and loss of amenities of life on account of permanent disability. Compensation qua pain and sufferings, disability, reduction in life expectancy/loss of amenities and loss of marriage prospects/special damages, totalling Rs.2,80,000/- allowed by the Tribunal shall be adjusted out of compensation of Rs.5 lakh.

The child remained hospitalised for a period of 8 days. Claimant shall be entitled to a sum of Rs.10,000/- for discomfort, inconvenience and loss of earning to his parents during period of hospitalisation. Compensation for medical and transportation expenses awarded by the Tribunal are affirmed. Claimant is awarded a sum of Rs.25,000/- for future medical treatment.

Total compensation is Rs.5,57,780/- and additional amount is Rs.2,55,000/- (5,57,780 – 3,02,780), payable with interest @ 7.5% per annum from the date of petition till realization, to be invested in fixed deposit. Interest accruing on FDR shall be payable to Smt. Keli Devi, mother of the injured for meeting expenses of the injured.

30.05.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No