

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

FAO-4119-2014 (O&M)
Date of decision: 01.02.2018

MAULLA RAM

...Appellant

Versus

SHAMSHER SINGH AND ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. S.S. Virk, Advocate
for the appellant.

Mr. D.K. Dogra, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.25086-CII of 2017

Prayer in this application is for placing on record additional evidence i.e. disability certificate (Annexure A1).

Counsel representing the insurance company has neither filed reply to the application nor raised any serious issue against original of Annexure A1 to be taken on record for disposal of appeal.

In view of the above, Annexure A1 is taken on record.

Disposed of accordingly.

Main Case

Maulla Ram, the injured victim is in appeal seeking enhancement of compensation on account of injuries sustained by him in a

motor vehicular accident that took place on 07.07.2011.

The Tribunal has awarded compensation to the tune of Rs.1,85,228/-, detailed hereunder:-

- | | |
|--|---------------|
| 1. Medical expenses including hospital charges | Rs.1,07,228/- |
| 2. Loss of earning | Rs.78,000/- |

Counsel for the appellant would urge that as per disability assessed by the medical board vide disability certificate dated 23.01.2014, disability to the extent of 40% in relation to lower limb was assessed with remarks that the same is likely to improve. Disability of the injured victim was reassessed by the medical board vide disability certificate dated 27.09.2017 (Annexure A1) whereby disability to the extent of 40% has been assessed but with the same remarks that the same is likely to improve and reassessment is required after a period of more than two years. It is further argued that the Tribunal has assessed loss of future income qua disability by treating the victim as a labourer and assessing his income at Rs.5000/- per month. According to counsel, as disability suffered by the injured victim did not improve even in view of reassessment made after about four years of initial assessment, he may be allowed adequate compensation for loss of future income on account of disability.

Another submission made by counsel is that the Tribunal has not allowed any compensation for loss of income during the period of treatment and recovery, pain and sufferings, services of an attendant, special diet and transportation etc. It is argued that Dr. Naveen Juneja,

Medical Officer from Saket Hospital, Panchkula has proved the period of treatment as an indoor patient.

Counsel representing the insurance company, on the other hand, has supported the assessment made by the Tribunal with the submission that adequate compensation has been paid. It is further argued that the Tribunal has assessed functional disability @ 10% despite the fact that there is medical opinion that disability is likely to improve.

Indisputably, Maulla Ram aged about 47 years sustained injuries on 07.07.2011. He suffered disability to his lower limb as assessed by the medical board in January, 2014. His disability has been reassessed by another medical board vide disability certificate dated 27.09.2017 but the opinion with regard to extent of disability and the same being likely to improve remains the same. The Tribunal has assessed income of the victim at Rs.5000/- per month by treating him as a labourer. Taking a sympathetic and reasonable view in the light of facts on record, interest of justice would be served, if functional disability of the victim is assessed at 15%. The Tribunal has rightly applied multiplier of 13 and assessed income at Rs.5000/- per month. Accordingly, loss of future income qua disability comes to Rs.1,17,000/- (Rs.5000 x 12 x 13 x 15%).

Dr. Naveen Juneja, PW5 has deposed that the injured was admitted in the hospital on 07.07.2011, operated upon on 29.07.2011, external fixator was applied on 10.08.2011 and discharged on 20.09.2011. The injured remained admitted as an indoor patient for approximately 2½

months. He suffered disability to his lower limb to the extent of 40%. Under the circumstances, claimant is allowed an amount of Rs.20,000/- for loss of income @ Rs.5000/- per month for a period of four months in regard to period of treatment and recovery. Taking into consideration the period of treatment in the hospital coupled with the nature of injury sustained and treatment given in the hospital, he is awarded an amount of Rs.10,000/- for pain and sufferings. He shall be entitled to a consolidated sum of Rs.10,000/- for special diet, services of an attendant and transportation etc. He is awarded another sum of Rs.15,000/- for loss of amenities of life in respect of disability suffered by him. The amount of compensation allowed by the Tribunal with regard to medical treatment is affirmed.

The total compensation comes to Rs.2,79,228/- and the additional amount is Rs.94,000/- (2,79,228 – 1,85,228), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

01.02.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No