

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

FAO-4197-2014 (O&M)
Date of decision: 15.01.2018

Rajpal

...Appellant

Versus

Rakesh Kumar and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Narender P. Bhardwaj, Advocate
for the appellant.

Ms. Swati Batra, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

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 09.03.2011.

The Tribunal has awarded an amount of Rs.69,625/- (rounded off to Rs.70,000/-) towards expenses on medical treatment.

Counsel for the appellant has submitted that the Tribunal has not awarded compensation under various other heads such as loss of income during the period of treatment and recovery, loss of future income on account of permanent disability to the extent of 10%, pain and sufferings, services of an attendant, special diet and transportation etc. It is

argued that the injured has suffered permanent disability to the extent of 10% as evidenced by disability certificate Ex.P39.

Counsel representing the insurance company has refuted contention of the claimant for grant of compensation qua disability on the premise that the claimant did not examine any of the members of the medical board who purportedly assessed disability. However, she has submitted that reasonable compensation may be allowed under other heads on the basis of materials on record.

The claimant has been allowed disbursement of medical expenses on the basis of documents marked as exhibits. Medical expenses of Rs.70,000/- allowed by the Tribunal are affirmed.

The claimant examined Dr. Akash Monga to prove the nature of injuries and period of initial treatment from 10.03.2011 to 18.03.2011. Dr. Akash Monga has deposed that the injured suffered supracondylar fracture left femur (compound) with fracture both bones of left leg. He was operated on 11.03.2011 and discharged on 18.03.2011. Dr. Balbir Singh Virk PW3 has deposed that the injured was admitted in his hospital on 06.06.2011 and discharged on 09.06.2011. The patient was having fracture non union femur left side three months old case. He received Rs.18,000/- as operation and hospitalisation charges. He produced documents Ex.PX and PX/1.

Perusal of testimonies of two doctors would make it evident that the injured suffered fracture left femur and both bones of left leg. He

was operated upon twice i.e. once in the hospital of Dr. Akash Monga and the second time in the hospital of Dr. Balbir Singh Virk. There is no clear evidence on record with regard to avocation and income of the victim. Taking a clue from the minimum wage available at the relevant time and fixed by the State of Haryana, income of the victim is assessed at Rs.4500/- per month. He is allowed loss of income for a period of three months qua period of treatment and recovery to the tune of Rs.13,500/- (4500 x 3).

The claimant has suffered permanent disability to the extent of 10%. No doubt, the claimant did not examine a member of the medical board that assessed disability but there is nothing on record to doubt correctness of the disability certificate Ex.P39 issued by the government doctors in discharge of their official duties. However, the remarks recorded by the medical board are not clearly legible for appreciation. Even counsel for the appellant has expressed his inability to say something in the matter. Under the circumstances, interest of justice would be served if the claimant is awarded an amount of Rs.20,000/- qua permanent disability to the extent of 10%.

The Tribunal has not awarded any compensation qua pain and sufferings. In view of the discussion made hereinbefore, claimant is awarded an amount of Rs.15,000/- for pain and sufferings. He is awarded another sum of Rs.15,000/- for services of an attendant, special diet and transportation.

The total compensation comes to Rs.1,33,500/- and the

additional amount is Rs.63,500/- (1,33,500 – 70,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

15.01.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No