

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

FAO No. 5178 of 2013(O&M)

Date of decision: 27.4.2018

Rajesh Kumar

.....Appellant

VERSUS

Dalbir Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Neeraj Jain, Advocate for the appellant.

Mr. V. Ramswaroop, Advocate for respondent No.1 and 2.

Mr. Lalit Garg, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.22010-CII of 2013

Prayer in this application is for condonation of delay of 1366 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Rajesh Kumar - appellant, the application is allowed and delay of 1366 days in filing the appeal stands condoned, subject to the condition that in case the appellant succeeds in appeal, he will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.5178 of 2013

The injured claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Gurgaon (in short 'the Tribunal') on account of injuries sustained by him in a motor vehicular accident that took place on 24.05.2007.

The Tribunal has awarded compensation to the tune of Rs.4,27,000/- detailed hereunder:-

Medical expenses	Rs.1,05,000/-
Loss of future income on account of permanent disability, matrimonial prospects and enjoyment of life	Rs.3,00,000/-
Mental shock, pain and suffering	Rs.10,000/-
Loss of earning for two months	Rs.6,000/-
Special diet	Rs.3,000/-
Transport expenses	Rs.3,000/-

Counsel for the claimants would urge that the injured suffered disability to the extent of 60% on account of amputation of left lower limb, therefore, compensation awarded by the Tribunal under various heads is inadequate and liable to be increased. It is further argued that as the injured would be requiring artificial limb throughout his life, he may be allowed compensation with regard to artificial limb.

Counsel representing the insurance company has supported assessment made by the Tribunal on the premise that adequate compensation has been assessed.

Counsel for respondents No.1 and 2 has echoed the arguments advanced by counsel for the insurance company.

The Tribunal has assessed income of the victim at Rs.3000/- per month on the basis of claim made and the same is affirmed. The amount of Rs.1,05,000/- towards medical expenses has been reimbursed on the basis of documents marked as exhibits and accordingly compensation qua medical expenses to the tune of Rs.1,05,000/- is affirmed.

Dr. Subhash Sindhu PW-6 was examined to prove nature and extent of disability suffered by the victim as well as the disability certificate Ex.PW6/1. Perusal of the disability certificate would reveal that the injured suffered post traumatic amputation of left leg above ankle and accordingly disability was assessed at 60%. Dr. Subhash Sindhu PW-6 made a statement to the similar effect with regard to disability suffered by the victim on account of amputation of left leg above ankle. The injured is present in the Court and has shown his left leg with regard to amputation and need of artificial limb. The Tribunal has taken his disability to the extent of 60% for assessing loss of income and the same is affirmed. However, claimant shall be entitled to loss of future income qua disability by applying multiplier of 18 as he was 20 years old at the time of occurrence. Accordingly, loss of future income qua disability is Rs. 3,88,800/- (Rs.3000/- x 12 x 18 x 60%).

Claimant is allowed compensation qua loss of amenities of life and matrimonial prospects to the tune of Rs.1,50,000/-. Compensation for pain and sufferings would be Rs.30,000/-. Compensation awarded by the Tribunal qua special diet, transportation expenses is enhanced to Rs.15,000/- which shall also include services of an attendant. Compensation for loss of earning during the period of treatment and recovery is enhanced to Rs.9,000/- (additional amount of Rs.3000/-).

The claimant shall require artificial limb throughout his life and is awarded an amount of Rs.1,00,000/- for the artificial limb.

In view of the above, total compensation comes to Rs.7,97,800/- and the additional amount is Rs.3,70,800/- (Rs.7,97,800/- - Rs.4,27,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 1366 days in filing the appeal. The additional amount beyond Rs.1,00,000/- shall be invested in a fixed deposit. Claimant shall be entitled to interest on the fixed deposit. He would be at liberty to file an appropriate application before the Tribunal for withdrawal of amount from the fixed deposit in order to meet his genuine future requirements.

The appeal is partly allowed in the aforesaid terms.

APRIL 27, 2018

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no