

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

FAO-5211-2013 (O&M)
Date of decision: 19.02.2018

PARDEEP ... Appellant

Versus

PARVEEN ETC ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Mukesh Bhatnagar, Advocate
for the appellant.

Mr. Naveen Chopra, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

Pardeep, the injured is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Jhajjar on account of injuries sustained by him in a motor vehicular accident that took place on 28.03.2011.

The Tribunal has awarded a sum of Rs.1,12,800/-, detailed hereunder:-

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| 1. Compensation for disability | Rs.75,000/- |
| 2. Expenses on medical treatment | Rs.13,795/-
(rounded of to Rs.13,800/-) |
| 3. Pain and sufferings | Rs.12,000/- |
| 4. Special diet, transportation and services of an attendant | Rs.12,000/- |

Counsel for the appellant would argue that compensation awarded by the Tribunal under various heads except reimbursement of medical expenses is on lower side and needs enhancement. It is urged that as the injured suffered permanent disability to the extent of 35% and temporary disability of 5%, claimant is entitled to loss of income qua disability by applying multiplier method. 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 as well as loss of amenities of life.

Counsel representing the insurance company has supported assessment made by the Tribunal with the plea that adequate compensation has been allowed.

Compensation of Rs.13,800/- for expenses on treatment of injured awarded by the Tribunal is affirmed. The injured suffered disability of permanent nature to the extent of 35% and temporary of 5%. Dr. Himanshu Narang PW5 was examined to prove disability and disability certificate Ex.P17. He has deposed that the board assessed disability to be 35% of permanent and 5% temporary in nature on account of injury to right lower limb leading to limitation of knee movement and stiffness of right ankle. Perusal of the disability certificate would reveal that the injured suffered fracture of right femur and right tibia leading to restriction of knee movement and stiffness of right ankle. Dr. Himanshu Narang has admitted in his cross-examination that disability is qua the particular limb and not

for the whole body. Nothing has been proved by way of examination or cross-examination of the doctor as to how disability of 35% is to be considered for assessing functional disability. There is no clear evidence available on record with regard to avocation and income of the victim. Taking a clue from the minimum wage available to an unskilled worker, income of the victim is assessed at Rs.4400/- per month. The functional disability is assessed to the tune of 10%. The injured was 26 years old and admissible multiplier would be 17. In this manner, loss of income qua disability comes to Rs.89,760/- (Rs.4400 x 12 x 17 x 10%).

The Tribunal has awarded an amount of Rs.12,000/- for pain and sufferings. The injured remained hospitalised from 28.03.2011 to 09.05.2011. As has been noticed hereinabove, he suffered fracture of femur and tibia (right) that rendered him disable to the extent of 35%. The claimant is awarded an amount of Rs.20,000/- for pain and sufferings. Compensation of Rs.12,000/- allowed by the Tribunal for transportation, special diet and services of an attendant is increased to Rs.20,000/-

The claimant could not perform his work during the period of hospitalisation for a period of one month and 10 days. As he suffered fracture right femur and right tibia, he must have taken some time to recover completely from his condition to get back to his work. He is awarded an amount of Rs.13,200/- as loss of income for a period of three months during the period of treatment and recovery @ Rs.4400 per month. He is further awarded an amount of Rs.10,000/- for loss of amenities of

life. Another sum of Rs.15,000/- for loss of matrimonial prospects is allowed.

Total compensation is Rs.1,81,760/- and the additional amount is Rs.68,960/- (1,81,760 – 1,12,800), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

19.02.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No