

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

FAO-5383-2014 (O&M)
Date of decision: 29.01.2018

SANDEEP SINGH

...Appellant

Versus

M/S CANADIAN INSTITUTE OF CARE AND ORS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Anil K. Sephia, Advocate
for the appellant.

Mr. R.K. Bashamboo, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

Sandeep Singh, the injured victim is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 16.12.2010.

The Tribunal has awarded compensation to the tune of Rs.18,04,507/-, detailed hereunder:-

1. Medical treatment	Rs.32,907/-
2. Transportation charges	Rs.10,400/-
3. Special diet	Rs.6000/-
4. Pain and sufferings	Rs.1,00,000/-
5. Loss of amenities of life and loss of marriage prospects	Rs.1,00,000/-
6. Loss of future earning	Rs.15,55,200/-

Counsel for the appellant would contend that the injured was working as a mechanic and possessing National Trade Certificate in the trade of Mechanical Fitter Ex.P53. In view of his avocation, nature and extent of disability suffered, future loss of income is liable to be assessed by treating functional disability to the extent of 100%.

The second submission made by counsel is that the Tribunal has allowed reimbursement of bills Exs.P1 to P37 to the tune of Rs.32,907/- but failed to take into consideration bill Ex.P54 of the value of Rs.97,531.61 issued by Max Super Specialty Hospital, Mohali. Another submission made by counsel is that adequate compensation may be allowed for special diet, pain and sufferings, loss of amenities of life and loss of matrimonial prospects.

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

The claimant suffered 90% disability qua the right upper limb rendering him unable to perform the job of a mechanic. The Tribunal has assessed functional disability @ 80%. There is no materials on record suggestive of the fact that the claimant cannot perform any other job which can be a source of earning. There is no medical opinion that because of 90% disability to the right upper limb, he is rendered totally useless for all the times to come. The Tribunal has assessed loss of future earning by assessing his income at Rs.6000/- per month plus addition qua future

prospects @ 50% with multiplier of 18 and functional disability to the extent of 80%. The Tribunal has shown magnanimity while assessing loss of future income. There is no justification for increase in compensation qua loss of future income on account of disability suffered by the victim. However, the claimant shall be entitled to loss of income for the period of treatment and recovery. He remained admitted in the hospital for 8 days and suffered amputation of right upper limb rendering him permanent disable to the extent of 90%. Taking into consideration nature of injury coupled with period and nature of treatment, interest of justice would be served if he is allowed loss of income for a period of three months in this regard. Accordingly, claimant shall be entitled to Rs.18,000/- under this head.

Counsel for the claimant has prayed for reimbursement of bill Ex.P54 issued by Max Super Specialty Hospital, Mohali. Claimant did not examine any doctor from the said hospital along with relevant records. Perusal of the bill does not indicate as to what type of surgery was performed in the aforesaid hospital. Claimant has failed to establish nexus between the treatment given in the Max Super Specialty Hospital, Mohali and injuries sustained in the occurrence. As such, claimant cannot seek reimbursement of expenses incurred on his treatment in the hospital at Mohali.

The Tribunal has awarded an amount of Rs.6000/- for special diet. In view of the above, claimant is held entitled to an amount of Rs.10,000/- for special diet. There is no justification for enhancement of

compensation qua pain and sufferings. However, claimant shall be entitled to additional amount of Rs.50,000/- for loss of amenities of life and matrimonial prospects. In this manner, claimant shall be entitled to additional amount of Rs.72,000/-, payable with interest @7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

29.01.2018
ashok

(REKHA MITTAL)
JUDGE

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