

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.9393 of 2014 (O&M)
Date of Decision: March 20, 2018.

Sandeep
.....APPELLANT(s).

VERSUS

Ismail and others
.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Gupta, Advocate
for the appellant (s).

Mr. Sanjeev Goyal, Advocate
for respondent No.4-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'the tribunal') vide award dated 30.04.2014 allowed compensation of ₹15,23,500/- for the injuries suffered by claimant-appellant Sandeep in a motor vehicle accident with dumper bearing registration No.HR-55J-2502

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded by the tribunal was computed as follows:-

(i)	Name of the injured	Sandeep
(ii)	Age of the injured	20 years
(iii)	Date of accident	21.03.2011

(iv)	Income of the injured	₹7000 p.m.
(v)	Loss of future prospects and income (multiplier applied 18)	7000x12x18=₹1512000/-
(vi)	Medical expenses	₹11500/-
<i>Total</i>		₹15,23,500/-

Learned counsel for the claimant has argued that claimant was a young boy, who suffered 100% disability and is not in a position to move. He requires assistance of an attendant throughout his life. After the accident, he was taken to Civil Hospital, Gurgaon, from where, he was referred to Sufdarjung Hospital, Delhi, where he remained admitted upto 29.03.2011 and thereafter remained under treatment for a long time as outdoor patient. The injury and disability suffered by him also affected his speech. A ryle tube was permanently affixed for his diet. He was having a very good business of sale of burger and chow-mein. The tribunal while computing compensation has not made any addition in the income of the injured towards future prospects. No compensation was awarded for special diet, pain suffering, attendant, transportation expenses, future medical treatment, loss of amenities of life and marriage prospects. The condition of a person, who has suffered 100% disability is very miserable. He cannot earn or do any work throughout his life and look towards the attendant even for his routine works. He has sought enhancement of amount of compensation so that claimant could lead a reasonably comfortable life.

Learned counsel for insurance company has argued that the tribunal while computing the amount of compensation, has taken income of the injured as ₹7000/- per month, which is higher than the minimum wages prescribed for daily wager at the relevant time. Though the tribunal has not made any addition in the income of the injured towards future prospects but

the income assessed, includes the future prospects. The injured was selling burgers, Chow-mein and his income could be taken as that of a skilled worker. He has not disputed the submission of learned counsel for the appellant for grant of compensation under non-pecuniary heads.

The accident took place on 21.03.2011. In order to prove the disability suffered by claimant, Dr. Mohd. Farukh was examined as PW8, who deposed about the disability of the claimant as follows:-

“On dated 12.02.2014, I along with other members of the Medical Board examined Sandeep S/o Mam Chand, aged 21 years, and assessed his disability to the extent of 100% which was on account of severe head injury with multiple haemorrhagic contusions with abnormal higher mental functions with quadriparesis with loss of control over bowel and bladder. Disability Certificate signed by me and other members of the medical board is Ex.PW8/1.”

The tribunal has assessed monthly income of the injured as ₹7,000/- keeping in view his avocation. He was having a rehri (cart) of selling burgers and chow-mein and could easily earn ₹250/- per day in the year 2011. Keeping in view the above facts, I find no reason to interfere with the quantum of monthly income assessed by the tribunal.

As per the law settled by Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009*, the addition of 40% in the income of the injured is to be made towards future prospects. Besides this, claimant is also entitled to compensation under the non-pecuniary heads, as follows:-

<i>Sl.No.</i>	<i>Non-pecuniary Heads</i>	<i>Calculation</i>
(i)	Special diet	₹10000/-
(ii)	Pain and suffering	₹50000/-
(iii)	Attendant charges	₹2,00,000/-
(iv)	Transportation expenses	₹10000/-
(v)	Future medical expenses	₹25000/-
(vi)	Loss of amenities of life and marriage prospects	₹100000/-
<i>Total</i>		₹395000/-

In view of the above discussion, the compensation to which the claimant is entitled, is re-assessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the injured	₹7000 per month
(ii)	40% of above (i) to be added as future prospects	(₹7000+₹2800)= ₹9800 per month
(iii)	Compensation after multiplier of 18 is applied	(₹9800X12X18)= ₹21,16,800/-
(iv)	Medical expenses (as awarded by the tribunal)	₹11,500/-
(v)	Compensation under Non-pecuniary heads (as detailed above)	₹395000/-
<i>Total</i>		₹25,23,300/-

The appeal has merits and is accepted. The award of the tribunal is modified and compensation allowed to the appellant-claimant is enhanced from ₹15,23,500/- to ₹25,23,300/- for the injuries suffered by him. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of appeal till actual realisation. Respondent No.3- insurance company will deposit the enhanced amount of compensation in the bank account of appellant-claimant or pay the same through demand draft. The claimant shall also be entitled to costs of this appeal.

March 20, 2018.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No