IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

315/4

FAO-946-2014(O&M)
Date of Decision : 16.11.2018

Raman Guleria ...... Appellant

Versus

Mahi Lal Sah and others .... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present: Mr.N.C.Kinra, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate
for respondent No.3.

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AJAY TEWARI, J. (ORAL)

This appeal has been filed for enhancement of compensation and for modifying the award dated 28.02.2013 awarding compensation of Rs.36,21,439/- along with interest @ 7.5% p.a. on account of injuries suffered by appellant-claimant in a motor vehicular accident which took place on 29.12.2010.

Learned counsel for the appellant has argued that once it was proved that both legs of the appellant had to be amputated about 6 inches above the knee, there is no prosthesis which can ever grant mobility to the appellant. Learned counsel for the respondent has fairly accepted that prosthesis in fact is only workable where it is just below the knee. In these circumstances the functional disability of 70% as assessed by the Tribunal is set aside and the same is taken as 90%.

Learned counsel has further argued that the Tribunal erred in not awarding Rs.2000/- per percent qua permanent disability. Learned counsel for the insurance company is not in a position to deny this. In the circumstances a sum of Rs. 1,80,000/- is awarded for permanent disability.

Learned counsel for the appellant has further argued that the appellant was in hospital for 22 days and for pain and suffering, special diet, attendant charges and transportation etc. only a sum of Rs. 25,000/- has been awarded which is highly inadequate. I award Rs.75,000/-more on all these counts.

Learned counsel has further argued that even for his most basic requirements the appellant would require an assistant for the rest of his life. Learned counsel for the insurance company has pointed out that no doubt the appellant might require some assistance for mobility since he had to be placed in a wheel chair but it is not a case where he required an assistant for every function. In the circumstances I deem it appropriate to direct the insurance company to create a fixed deposit of Rs. 10 lakhs in a Nationalised bank. The interest thereon would be disbursed on quarterly basis to the appellant for the purpose of the expenses which he may require for an attendant in future and on his death the fixed deposit would revert back to the insurance company. I also deem it appropriate to grant an amount of Rs. 2.5 lakhs as attendant charges for 8 years i.e. from the date of accident till today. The sum relating to attendant charges for the last 8 years would be disbursed to the appellant while the remaining amount would be again put in a fixed deposit as per the award of the Tribunal.

On the enhanced amount of compensation, interest would be 12% p.a. as per the law laid down in **Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram & ors., 2018(4) RCR(Civil) 333.**

The appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

November 16, 2018
sunita

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No