

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.318 of 2017 (O&M)
Date of Decision.17.05.2018

National Insurance Company Limited ...Appellant

Vs

Rajender and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Sidhu, Advocate
for the appellant.

Mr. Vishal Nehra, Advocate
for respondent No.1.

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AMIT RAWAL J.(ORAL)

C.M. No.1184-CII of 2017

For the reasons stated in the application, delay of 30 days
in filing the appeal is condoned.

Application is allowed.

FAO No.318 of 2017

The present appeal has been preferred by the insurance
company challenging the award passed by the Tribunal on account of
injuries suffered by the claimant in the following manner:-

- | | | | |
|----|--------------------------|---|-------------|
| 1. | Loss of future income | - | ₹8,40,000/- |
| 2. | Pain and suffering | - | ₹50,000/- |
| 3. | Medical bills | - | ₹15,507/- |
| 4. | Loss of future prospects | - | ₹1,00,000/- |
| 5. | Special diet | - | ₹15,000/- |
| 6. | Transportation | - | ₹15,000/- |

Total - ₹10,35,507/-

Mr. S.S. Sidhu, learned counsel appearing on behalf of the appellant-insurance company submitted that the claimant suffered permanent disability to the extent of 35% on account of injuries suffered in right leg but the Tribunal while taking the income of the injured as ₹5000/- per month, applied a multiplier on the same while it should have been applied on 35% of ₹5000/-, thus, there is gross illegality and infirmity. The amount of ₹1 lac for loss of future prospects is unjustified and against the settled principles of law, thus, urges this Court for modification of the award.

On the other hand, Mr. Vishal Nehra, learned counsel appearing on behalf of the respondent-claimant submitted that the amount of compensation assessed by the Tribunal is perfectly legal and justified and there is no illegality and perversity, thus, urges this Court for upholding the award under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. S.S. Sidhu. Even if the 35% permanent disability is to be taken as 35% functional disability then the multiplier would be applied on 35% of monthly income i.e. ₹5000/-, therefore, the loss of future earning will be ₹2,94,000/-. As regards the loss of future prospects to the tune of ₹1 lacs, I am of the view that the nomenclature of the head is wrong. It ought to have been loss of amenities of life and loss of expectancy. Though the amount of ₹1 lac is little higher side but the Tribunal did not provide anything towards attendant charges and loss of income for the period of

hospitalization and till the time he could not resume to his work.

Therefore, rest of the heads of claim are upheld.

In total, the compensation payable shall be ₹4,89,507/- which shall also attract interest @7.5% from the date of filing of the claim petition till realization. The amount of compensation shall be disbursed to the claimant within a period of six weeks from the date of receipt of certified copy of this order failing which the interest shall be awarded @12% per annum. The statutory amount of ₹25,000/- deposited before this Court shall be transmitted to the Tribunal for part satisfaction of the award.

The award passed by the Tribunal is modified to the above extent and the appeal is allowed.

(AMIT RAWAL)
JUDGE

May 17, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No