

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

FAO No.5979 of 2017 (O&M)

Date of Decision.19.02.2018

Sitabi wife of Shri Deen MohammedAppellant
Vs

National Insurance Company Limited and anotherRespondents

2. FAO No.5985 of 2017 (O&M)

Aasim @ HasamAppellant
Vs

National Insurance Company Limited and anotherRespondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Munfaid Khan, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

C.M. No.3196-CII of 2018 in FAO No.5979 of 2017

C.M. No.3227-CII of 2018 in FAO No.5985 of 2017

For the reasons stated in the applications, the order passed by
this Court on 30.01.2018 is recalled and the respective appeals are restored
to their original numbers.

Applications are allowed.

C.M. No.19364-CII of 2017 in FAO No.5979 of 2017

C.M. No.19373-CII of 2017 in FAO No.5985 of 2017

For the reasons stated in the applications, delay of 111 days in
filing the respective appeals is condoned.

Applications are allowed.

Main cases

This order of mine shall dispose of two appeals bearing
No.5979 and 5989 of 2017 arising out of the same accident. The claimants

suffered injuries in the motor vehicular accident occurred on 8.11.2015. Sitabi suffered 40% permanent disability on account of post-traumatic case of fracture of right supra condylar humerus of neck of left humerus with severe restriction of movements at right elbow joint with moderate restriction of movements at left shoulder joint and Aasim @ Hasam suffered 5% disability on account of post traumatic operated case of fracture of both bones of right forearm with mild restriction of movements at right writ joint.

The Tribunal on the preponderance on evidence, assessed the following compensation in both the cases:-

“Sitabi

Pain and suffering & loss of enjoyment of life	₹50,000/-
Special diet	₹10,000/-
Attendant charges	₹10,000/-
Transportation	₹10,000/-
Treatment expenses	₹2,070/-
Permanent disability	₹2,59,200/-
Total	₹3,41,270/-

Aasim @ Hasam

Pain and suffering & loss of enjoyment of life	₹10,000/-/-
Special diet	₹3,000/-
Attendant charges	₹3,000/-
Transportation	₹5,000/-
Treatment expenses	₹33,182/-
Permanent disability	₹10,000/-
Total	₹64,182/- or to say ₹64,200/-

Mr. Mufaid Khan, learned counsel appearing on behalf of the appellant in both the cases submits that the Tribunal has not taken into consideration the loss of income during the period of hospitalization, much less, the amounts provided towards special diet, attendant charges, transportation are on lower side. In the case of Sitabi, the Tribunal has

provided only a sum of ₹2,070/- for purchasing medicines but ignored the other expenses like doctor fee, lab charges etc. In the case of Aasim @ Hasam, the amount of ₹10,000/- assessed towards permanent disability is very meager, thus, there is scope for enhancement.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submission of Mr. Khan. As regards the case of Sitabi, she claimed her income to be ₹8000/- per month but in the absence of any documentary proof, the Tribunal has rightly assessed the income as ₹6000/- per month and applied the formula correctly to assess the loss of future earning on account of permanent disability as ₹2,59,200/-, much less, other heads of claim are sufficiently taken care of.

As regards the case of Aasim @ Hasam, no doubt he suffered 5% permanent disability but there is no evidence brought on record as to how and in what manner, the permanent disability has affected his earning capacity. In the absence of the same, the amount of ₹10,000/- provided towards loss of earning is perfectly legal and justified. The other non-pecuniary heads of claim are also assessed correctly.

In view of the aforementioned, I do not find any illegality and perversity in the awards passed by the Tribunal, much less, no ground for interference is made out. The same are upheld and the appeals are dismissed.

(AMIT RAWAL)
JUDGE

February 19, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No