

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6142 of 2018(O&M)
Date of Decision: 4.10.2018

United India Insurance Company Limited

---Appellant

versus

Ms. Simranjeet Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ashwani Talwar, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against award dated 17.7.2018 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short “the Tribunal”) whereby compensation has been assessed on account of injuries sustained by Simramjeet Kaur minor aged about 13 years in a motor vehicular accident that took place on 27.1.2016.

The Tribunal has awarded compensation of Rs.4,82,620/-, detailed hereunder:-

Loss of future earning @ 15%	Rs. 2,16,270/-
Hospitalization charges	Rs. 1500/-
Pain and suffering	Rs. 20,000/-
Medical bills/receipts	Rs. 3350/-
High protein diet charges	Rs. 20,000/-
Physiotherapy charges	Rs. 5000/-
Transportation charges	Rs. 10,000/-
Expenses to be incurred for purchasing of artificial limb	Rs. 1,36,500/-
Loss of enjoyment of life, marriage prospects, life expectancy and amenities	Rs. 70,000/-

Counsel for the appellant would urge that the Tribunal has assessed loss of future earnings by considering annual income of the victim at Rs. 80,100/- and multiplier of 18 has been applied to compute Rs. 2,16,270/- under this head. It is further argued that compensation allowed by the Tribunal for purchasing artificial limb, loss of enjoyment of life etc. is also on higher side and needs reduction.

Another submission made by counsel is that the claimant has not produced any invoice/bill with regard to purchase of artificial limb and compensation has been allowed only on the basis of quotation with regard to price of artificial limb.

The Tribunal, in para 24 of the award, has dealt with disability suffered by the injured-victim. Dr. Aditya Aggarwal, Professor, Department of Orthopaedics, PGI, Chandigarh PW3 was examined and he has deposed that injured suffered fracture right clavicle, right femur, 4, 5 proximal phalanx with 2nd and 3rd toe PIP dislocation 3,4,5 toe disarticulation MTP jt. Disability of the victim was assessed to the extent of 21% in relation to right lower limb and partly to right upper limb. The disability certificate is Ex. P10. It has been deposed by the doctor that because of this disability, the patient cannot stand for long duration, run, travel, lift weight and do other physical movements requiring efforts of her back against resistance. It was opined that disability has to be reassessed after a period of three years. Because of amputation, disability cannot be improved with passage of time and injured cannot join armed forces because of this disability. The Tribunal has assessed functional disability to the extent of 15%. Taking into consideration medical opinion of Dr. Aditya Aggarwal on the basis of assessment made by a medical board of PGI Chandigarh coupled

with the difficulties to be faced by the victim on account of disability, I do not find any reason to interfere in assessment of functional disability, in the given scenario.

Indisputably, the injured-victim is a minor aged about 13 years. When the case is examined in the light of judgment of Hon'ble the Supreme Court **Master Mallikarjun v s. Divisional Manager, the National Insurance Company Limited and another 2013(4) RCR (Civil) 295**, the claimant is entitle to a sum of Rs. 3,00,000/- for pain and suffering already undergone and to be suffered in future, mental and physical shock, hardship, inconvenience, discomforts, loss of amenities of life on account of permanent disability.

The Tribunal has awarded a sum of Rs. 1500/- towards hospitalization charges, Rs. 3350/- for medical bills, Rs. 20,000/- for special diet, Rs. 5000/- for physiotherapy and Rs. 10,000/- for transportation charges. Total thereof comes to Rs. 39,850/- and the same is affirmed.

Counsel has raised a serious issue with regard to compensation of Rs. 1,36,500/- towards price of artificial limb. The Tribunal has awarded a sum of Rs. 70,000/- under various heads. Compensation of Rs. 3,00,000/- allowed by this court would cover loss of enjoyment of life/amenities of life. However, disability suffered by the victim may have serious repercussions with regard to her matrimonial prospects. That being so, the claimant is awarded an amount of Rs. 1,00,000/- towards loss of matrimonial prospects. The victim would be requiring an artificial limb which may require change after different intervals. In the given scenario, the remaining amount towards price of artificial limb cannot be said to be excessive. In this view of the matter, it

is difficult to accept contention of the appellant that compensation assessed by the Tribunal is on higher side and needs reduction.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. Nothing stated hereinbefore shall prejudice the claimant if she files an appeal for enhancement.

(Rekha Mittal)
Judge

4.10.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No