

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-4040-2001 (O&M)

Date of decision : 24.7.2019

Ram Kumar (minor)

.....Appellant.

Versus

Ram Kumar and another

..... Respondents.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.K. Singal, Advocate for the appellant.

Mr. Devender Kumar, Advocate for

Mr. Surinder Dagar, Advocate for respondent No. 1.

KULDIP SINGH, J (ORAL)

Present appeal has been filed against the Award dated 9.12.2000, passed by Motor Accident Claims Tribunal, Panipat.

Brief facts of this case are that claimant-appellant, aged about 9 years, was studying in 3rd class in Government Primary School, Naultha. On 6.8.1998 when he was returning from school and waiting to cross the road, a Rajasthan roadways bus bearing registration No. RJ-32-P-2002 being driven in rash and negligent manner by the driver-Ram Kumar hit the claimant-appellant. As a result of which, he received serious injuries on the head, shoulder, left thigh and pelvis. He remained admitted in two different hospitals from 6.8.1998 to 28.8.1998. He was twice operated upon for fracture on the left leg. As per the disability certificate Ex. P-3, claimant-appellant suffered 50% disability. The Tribunal awarded the following compensation: -

1.	Medical Bills	Rs. 7600/-
2.	Special Diet and transportation charges	Rs. 2500/-
3.	For 50% disability	Rs. 1.00 lac
	Total	Rs. 1,10,100/-

Feeling dissatisfied with the above said compensation, claimant-appellant preferred the present appeal.

Heard, the learned counsel for the parties and have also gone through the case file.

As per the MLR, there is a fracture on pelvis. His left leg was operated upon twice. He remained admitted in the hospital for 23 days.

Learned counsel for claimant-appellant has shown the copies of the medical bills. It is stated that some of the medical bills were not considered by the Tribunal. In fact the total medical bills are amounting to Rs. 11,194/-. After going through the photocopies of the medical bills, Rs. 11,194/- are allowed on account of medical bills.

Learned counsel for the appellant further contends that Rs. 2500/- were allowed on account of pain and sufferings and special diet. I am of the view that on account of fracture on leg, one is disabled for about 3 to 6 months, therefore, Rs. 2500/- for pain and suffering; special diet and attendants are on the lower side. The said compensation is enhanced to Rs. 10,000/-.

Admittedly, claimant-appellant has suffered 50% disability. Recently, Hon'ble Apex Court in the authority contained in **Master Mallikarjun vs. Divisional Manager, The National Insurance Company Limited and another, 2013 (4) RCR (Civil) 295**, has examined the issue

regarding grant of compensation in case of disability suffered by the children in the motor vehicles accident. Learned Apex Court is of the view that structured formula should not be followed. It was observed as under: -

“Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. For permanent disability upto 10%, it should be Rs.1 lakh, unless there are exceptional circumstances to take different yardstick. In the instant case, the disability is to the tune of 18%.”

I am of the view that in the present case also, it is a case of disability faced by the child aged about 9 years, therefore, the structured formula is not to be followed. As such in view the aforesaid authority in **Master Mallikarjun's (supra)**, the claimant-appellant is entitled to Rs. 4.00 lacs compensation for 50% disability. Hence, the total compensation comes to Rs. 4,21,194/-. The enhanced compensation is ordered to be paid jointly and severally by the respondents with interest @ 7.5% per annum from the date of filing of the claim petition till realization. Payment of the enhanced compensation be made within two months.

Appeal stands allowed accordingly.

(KULDIP SINGH)
JUDGE

24.7.2019
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No