

FAO No.370 of 2011

Date of Decision: 21.08.2019

Arshad

.....Appellant

Versus

Sudhir Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Munfaid Khan, Advocate
for the appellant.Mr. Shashi Kumar Yadav, Advocate
for respondent No.1.Mr. Jagjit Singh Chatrath, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.3.**NIRMALJIT KAUR, J. (ORAL)**

The present appeal has been filed for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Nuh (for short, the Tribunal), vide award dated 10.09.2010.

While praying for allowing the appeal, learned counsel for the appellant submitted that there is 100% disability but in spite of the same, no amount towards future prospects has been given. It is further submitted that no amount has been given towards mental and physical agony, the appellant having received 100% disability also requires attendant all his life. No amount has been given towards transport charges etc. during the period he was hospitalized and under treatment. He was a driver and therefore, amputation of right thigh has resulted in total inability to work as a driver. It is also not understood as to how the deduction of 1/3rd was applied by the Tribunal, taking into account the appellant is still alive.

Learned counsel for respondent No.3-insurance company while opposing the claim petition has only raised formal objection but is not able to dispute the well settled proposition of law with respect to the grant of amount towards the future prospects in a case, like the present one. It is also agreed that the Tribunal could not have applied the deduction as the appellant is still alive.

In view of the above, the present appeal is allowed to the extent of 40% future prospects and an amount of ₹1,30,000/- towards mental and physical agony would be sufficient in terms of the judgment rendered in the case of **Sandeep Khanuja Versus Atul Dhande and another, 2017 (3) SCC 351**. Further, the deduction of 1/3rd applied by the Tribunal is also set aside.

Accordingly, the appellant is entitled to the enhancement as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	4000/- per month ₹48,000/- per annum
2	Future Prospects	40% (48000 x 40% = ₹1920) 48000 + 1920 = ₹67200/-
3	Multiplier	18
4	Compensation awarded	67200 x 18 = 12,09,600/-
5	Mental and Physical agony	₹1,30,000/-
6	Medical expenses	₹246856
7	Total	₹15,86,456/-
8	Compensation awarded by the Tribunal	₹8,22,928/-
9	Differences	₹1586456 – 822928 = ₹7,63,528/-

Thus, the enhanced compensation of ₹7,63,528/- be paid to the appellant within two months from today alongwith 6% interest per annum

FAO No.370 of 2011

from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

21.08.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No