

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

205

FAO-621-2010 (O&M)

Date of decision: 07.11.2019

PREET SINGH

... Appellant

Versus

M/S JAGDAMBAY ENTERPRISES AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ferry Sofat, Advocate for the appellant.
Mr. Rajesh K. Sharma, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.3412-CII of 2010

Heard.

Allowed as prayed for. Delay of 3 days in filing the appeal stands condoned.

Main Case

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 26.03.2007.

The Tribunal awarded Rs.3,19,550, detailed hereunder:-

Pain and sufferings	Rs.25,000/-
Pre and post operation charges	Rs.50,000/-
Transportation expenses	Rs.10,000/-
Loss of earning	Rs.30,000/-
Attendant charges	Rs.10,000/-
Special diet	Rs.10,000/-
Medical expenses	Rs.1,84,550/-

Counsel for the appellant would argue that disability certificate Ex.P-213 was produced by Dr. Mohammad Yamin of Dayanand Medical College and Hospital, Ludhiana but the Tribunal has not awarded any compensation qua future loss of income on account of disability by holding that disability has not been assessed by a medical board of government doctors. It is argued that disability was assessed by the doctors of Dayanand Medical College and Hospital, Ludhiana and the same is counter-signed by Medical Superintendent of the said hospital whereas one of the members of the medical board was examined in the case. Counsel would state that

appellant would be satisfied if he is granted compensation qua disability to the tune of Rs.2000/- per percent.

Another submission made by counsel is that victim was a young boy, aged about 20 years but Tribunal has not awarded any compensation for loss of amenities of life and matrimonial prospects. Adequate compensation may be allowed under various heads for which compensation has been awarded by the Tribunal.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal with the submission that appellant has been adequately compensated and the Tribunal has shown magnanimity in awarding compensation under various heads making total compensation to the tune of Rs.3,19,550/-.

The Tribunal has discarded testimony Dr. Mohammad Yamin and disability certificate Ex.P-213 merely because the disability has not been assessed by a medical board constituted by the Civil Surgeon. Dr. Mohammad Yamin tendered into evidence his affidavit by way of examination in chief and disability certificate was marked as an exhibit in his statement. The records of the case were burnt in fire incident. Counsel for the parties have expressed their inability to make available testimony of the doctor by way of cross examination. There is no such thumb rule that disability must be assessed by a medical board constituted by the head of a government hospital. It may be true that disability assessed by a medical board of government hospital invites precedents over disability assessed by the doctors of a private hospital. Dayanand Medical College and Hospital, Ludhiana is an institute that enjoys reputation in the State of Punjab. Taking into consideration the materials on record coupled with the offer given by counsel for the appellant, I do not find any reason to reject claim of the appellant for grant of compensation of Rs.60,000/- in respect of 30% disability @ Rs.2000/- per percent. Accordingly, appellant shall be entitled to Rs.60,000/- for disability/future loss of income on account of disability.

The Tribunal has not awarded any compensation for loss of matrimonial prospects/amenities of life. The appellant is allowed Rs.40,000/- under this head. The compensation allowed by the Tribunal under various heads is based upon materials on record and there is no

justification for allowing additional compensation under those heads. As such, the appellant shall be entitle to additional compensation of Rs.1 lakh, payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

07.11.2019

(REKHA MITTAL)

ashok

JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No