

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

FAO No.721 of 2011
Date of Decision: 9.9.2019

Jatinder Singh

.....Appellant

Versus

Balkar Singh Fauji and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sukhdeep Singh, Advocate for
Mr. G.S. Thind, Advocate, for the appellant.

NIRMALJIT KAUR, J. (ORAL)

The appellant-claimant is injured minor of 15 years old.

While praying for enhancement in the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal) vide order dated 6.4.2010, learned counsel for the appellant submitted that nothing has been granted towards the pain and suffering and neither towards future prospects.

Reliance has been placed upon the judgment of Hon'ble the Apex Court rendered in M.R. Krishna Murthi vs. New India Assurance Co. Ltd. and others, 2019(2) RCR (Civil) 455, wherein the minor was found entitled to the future prospects. It is further stated that income should have been assessed as per the settled proposition of law in the case of Beet Nath and another vs. Gulab Singh and others, passed in CR No.159 of 2015 decided on 10.7.2017. He further submitted that multiplier of 18 should have been applied taking into account the age of the claimant being 15 years as applied in M.R. Krishna Murthi's case (supra). Operative part of the said judgment is reproduced as under:-

“26) As can be seen from the above, loss of future earning is assessed at Rs.2,000/- per month or Rs.24,000/- per annum. In the process, the MACT has not considered future prospects having regard to the relevant facts pointed out above which should have been taken into consideration. At the same time, it is the functional disability which has to be kept in mind. Though, not very seriously, the functional capacity has been impaired because of the disability suffered by the appellant as the appellant cannot run around like other young advocates of his age. Going by the overall circumstances, we are of the opinion that in case of the appellant, loss of future earning can be fixed at Rs.5,000/- per month i.e. Rs.60,000/- per annum on which multiplier of 18 is to be applied. Calculated in this manner, the loss future earning comes to Rs.10,80,000/-. The appellant, thus, would be paid another sum of Rs.6,54,000/- under this head along with interest as awarded by the Court below. We may place on record the statement of Mr. Arun Mohan that the appellant has volunteered to give this amount to any Government or public charitable organisation working towards road safety. We appreciate this gesture of the appellant. We leave it to the appellant to donate the amount to any particular organisation of his choice. Alternatively, it can also be given for MAMC project by the appellant. Choice would entirely be that the appellant.”

The appellant-claimant in the present case was 15 years of old.

knee. It is further stated that almost ₹ 70,000/- was spent on the treatment, medicines, conveyance and special diet, but only ₹ 37,000/- has been given. Further, nothing has been granted towards pain and agony. The appellant remained admitted in hospital for about 1½ months from 23.10.2007 to 8.12.2007. Therefore, the award towards pain and suffering, special attendance and special diet is insignificant. The same shall also come in the way of marriage of the appellant and he will be debarred from certain professions of his choice.

No one has put in appearance on behalf of the respondent-Insurance company in spite of service.

The fact that the appellant-claimant has suffered permanent disability to the extent of 60% is evident from the award dated 6.4.2010, The Tribunal duly noted that the child shall carry the stigma of being handicapped throughout his life. He will be burden on his parents and would need help all his life. The same shall affect his social and marital life. In spite of noting the same, only ₹ 2,00,000/- was awarded including towards the medical expenses etc.

As per the judgment in the case of M.R. Krishna Murthi (supra), which was the case of a minor child, the income was assessed @ ₹ 5,000/- per annum. A multiplier of 18 was applied while granting future prospects. In the said case, income @ 60,000/- per annum was taken in view of the child being affluent background and studying in a prestigious school having bright future and future earnings. In the present case, there is no evidence on record with respect to the same. Therefore, this Court deems it proper to follow the judgment rendered in the case of Kishan Gopal and

of 10 years child was taken as ₹ 30,000/- per annum.

The argument of learned counsel for the appellant that the learned Single Judge of this Court in the cases of Sunita Devi and another vs. Vijay Pal and others, 2018(2) Law Herald 1659 and Beet Nath (supra), income of the child was assessed @ ₹ 50,000/- per annum, should be taken into consideration, cannot be sustained. The judgments rendered in the cases of Sunita Devi (supra) and Beet Nath (supra), the accident was of the year 2012, whereas, in the present case, the accident is stated to be in the year 2007. Taking ₹ 30,000/- per annum as the income of the appellant, the appellant is also entitled to the multiplier of 18. Hence, the total amount comes to ₹ 5,40,000/-. Nothing was granted towards pain suffering, attendance etc. Therefore, another amount of ₹ 60,000/- is awarded towards the same. Accordingly, enhanced amount of ₹ ₹ 6,00,000/- be paid to the appellant over and above, the amount already granted within two months along with 6% interest per annum 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

9.9.2019
sharmila

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