

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

210

FAO-5277-2012 (O&M)

Date of decision: 31.10.2019

NAVEEN

... Appellant

Versus

ROHTASH KUMAR & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Hoshiar Singh Jaswal, Advocate for the appellant.
Mr. VK Garg, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 07.09.2009.

The Tribunal awarded Rs.1,98,000/-, detailed hereunder:-

- | | |
|--|---------------|
| 1. Loss of future income
on account of disability | Rs.1,68,000/- |
| 2. Expenses on medical treatment,
attendant charges, transportation,
pain and suffering and diet | Rs.30,000/- |

Counsel for the appellant would argue that victim is rendered permanently disable to the extent of 84% on account of amputation of right arm with deformity of right ankle and leg. It is argued that in view of nature and extent of disability suffered by the victim, adequate compensation may be allowed with regard to loss of future earning by applying multiplier method. It is further argued that Rs.30,000/- allowed under various heads i.e. medical treatment, attendant charges, transportation, pain and sufferings and diet is grossly inadequate. He has prayed for grant of compensation for loss of amenities of life as well.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal.

Dr. Naresh Dahiya, Anesthesia Department, PGIMS, Rohak, one of the members of medical board was examined to prove disability and disability certificate Ex.P13. His testimony is conspicuously silent as to how disability suffered by the victim on account of amputation of right arm with

deformity of right ankle and leg can be considered for the purpose of assessing functional disability in view of avocation of the victim prior to the accident. Naveen, the injured appeared in the witness box and tendered into evidence his affidavit Ex.PW1/A and documents i.e. OPD cards Exs.P1 to P9, admission and discharge cards Exs.P10 to P12. There is no clear evidence on record with regard to avocation of the victim, aged about 22 years before the unfortunate accident. In the given circumstances, injured would be treated as a casual worker and minimum wage of an unskilled labour at the relevant time was Rs.3900/- per month. Taking a lenient and reasonable view, the entire disability suffered by the victim shall be taken into account for assessing future loss of income. The admissible multiplier is 18. In this manner, loss of future income is assessed at Rs.7,07,616/- (3900 x 12 x 18 x 84%).

Naveen has deposed that he remained admitted in PGIMS, Rohtak in Ortho Department from 07.09.2009 vide CR No.789880 and operated upon, from 28.07.2010 to 09.08.2010 vide CR No.871275 and from 23.06.2011 to 25.06.2011 vide CR No.958255. Meaning thereby that the injured remained hospitalised for a period of about one month. He has produced bills in respect of medical expenses to the tune of Rs.36,583/-. The appellant shall be entitle to reimbursement of medical expenses to the tune of Rs.37,000/-. He is awarded Rs.20,000/- for transportation, services of an attendant, special diet etc. The appellant is awarded Rs.30,000/- for pain and sufferings and Rs.45,000/- for loss of amenities of life. Total compensation is Rs.8,39,616/- and additional amount is Rs.6,41,616/- (8,39,616 - 1,98,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

31.10.2019

ashok

Whether speaking/reasoned:

Whether reportable:

(REKHA MITTAL)

JUDGE

Yes / No

Yes / No