

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 4.4.2019

FAO-1197 of 2015(O&M)

Bikar (minor) through his mother

---Appellant

versus

Shilu and others

---Respondents

FAO-1949 of 2015(O&M)

Dhari Ram (now deceased) through LRs

---Appellant

versus

Shilu and others

---Respondents

FAO-2543 of 2015(O&M)

Smt. Shito

---Appellant

versus

Shilu and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Suresh Kumar Kaushik, Advocate
for the appellant**

**Mr. Sachin Ohri, Advocate,
for the insurance company**

Rekha Mittal, J.

This order will dispose of FAO Nos. 1197, 1949 and 2543 of

2015 as these have emerged out of same award dated 19.9.2014 passed by the Motor Accidents Claims Tribunal, Kaithal (in short “the Tribunal”) whereby compensation has been awarded on account of injuries sustained by Bikar, Dhari Ram and Smt. Shito.

All the aforesaid appeals have been preferred by the claimants seeking enhancement of compensation.

FAO No. 1197 of 2015

With regard to injuries sustained by minor Bikar Singh for whom the claim was preferred by his mother Smt. Shito, the Tribunal has awarded Rs. 1,62,159/-, detailed hereunder:-

Pain and suffering	Rs. 25,000/-
Special diet for one month @ Rs. 100/- per day	Rs. 3000/-
Attendant charges for two months @ Rs. 1000/- per month	Rs. 2000/-
Transportation charges	Rs. 3000/-
Loss of amenity and disability	Rs.80,000/-
Expenses of medicines	Rs. 49,159/-

Counsel for the appellant has prayed for enhancement of compensation under various heads in regard whereof the Tribunal has assessed compensation. To bring home his contention, it is argued that the injured was a student of 6th class and he remained admitted in PGI, Chandigarh for about two months. The injury sustained in the occurrence resulted in shortening of one of the lower limbs by 2 inches on account of fracture left femur and X-ray showed mal-union. However, the doctor has stated that disability is likely to reduce with future medical intervention. Taking into consideration the nature and extent of disability coupled with the facts elicited in cross examination of Dr. Anoop Mehta PW3, functional disability can be assessed to the extent of 10%. Taking a view from

judgment of Hon'ble the Supreme Court **Master Mallikarjun vs. Divisional Manger, the National Insurance Company Limited and another 2013(4) TAC 1**, claimant shall be entitle to Rs. 1,00,000/-.

The Tribunal has awarded Rs. 25,000/- for pain and suffering and Rs. 80,000/- towards loss of amenity and disability which is more than Rs. 1,00,000/-. Even if functional disability of the victim is assessed at 10%, compensation allowed by the Tribunal under the aforesaid two heads would meet the criteria laid by Hon'ble the Supreme Court in **Master Mallikarjun's case (supra)**.

The Tribunal has not awarded any compensation with regard to loss of income of the parents who remained attending to the victim during his hospitalization. The claimant is awarded an amount of Rs. 15,000/- with regard to loss of income of his parents. The Tribunal has awarded an amount of Rs. 8000/- for special diet, attendant and transportation charges. Keeping in mind the period of hospitalization and that too at Chandigarh, away from native place of the victim, claimant shall be entitle to Rs. 15,000/- under the aforesaid heads.

Counsel for the appellant has made submission that the Tribunal has not reimbursed medical expenses qua the bills in which name of the injured has not been mentioned. Contention of the claimant for allowing reimbursement of medical expenses on the basis of bills which are neither supported by prescription slip nor bear his name is not meritorious.

The additional amount of Rs. 30,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

The Tribunal has awarded Rs. 1,50,423/-, detailed hereunder:-

Pain and suffering	Rs. 40,000/-
Special diet for one month @ Rs. 100/- per day	Rs. 3000/-
Attendant charges for two months @ Rs. 1000/- per month	Rs. 2000/-
Transportation charges	Rs. 3000/-
Loss of income @ Rs. 13200/- (three months)	Rs. 13,200/-
Expenses of medicines	Rs. 49,623/-
Functional loss on account of disability	Rs. 39,600/-

Counsel for the appellant would argue that the Tribunal has not extended benefit of reimbursement of certain medical bills on the premise that the same do not bear name of the injured. In addition, it is argued that the injured suffered disability to the extent of 19% but the Tribunal has assessed income on account of disability by assessing functional loss at 5%.

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

During the course of hearing it has been revealed to the Court that Dhari Ram passed away in November 2018 and an application for impleading his legal representative(s) has been filed. The Tribunal has allowed loss of future income by applying multiplier of 15. In the given circumstances, there is no justification for allowing additional compensation qua future loss of income on account of disability suffered by the victim. Similarly, contention of the appellant in regard to non-reimbursement of medical expenses qua the bills in which name of the injured has not been mentioned is not meritorious, in view of discussion made in FAO No. 1197 of 2015.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

FAO No. 2543 of 2015

The FAO is treated as a Civil Revision and the Registry is directed to re-number the same accordingly.

The Tribunal has awarded a lump sum of Rs. 300/-. Medico Legal Report mark 'A' of the injured reveals that she suffered simple injury i.e. lacerated wound 4 x 1 cm below lip. Taking a sympathetic view, the appellant is awarded an amount of Rs. 2000/- in respect of injury sustained in the occurrence. The additional sum of Rs. 1700/- shall carry interest @ 7.5% per annum from the date of petition till realization.

Petition is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

4.4.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No