IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 3183 of 2015(O&M)

Date of Decision: March 27 , 2019.

The New India Assurance Company Ltd. ...... APPELLANT (s)

Versus

Mohd. Amjad and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Deepak Suri, Advocate
for the appellant.

Mr. Rajesh Lamba, Advocate
for respondent No.1.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This appeal has been filed by the Insurance company challenging the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as, the 'Tribunal') vide award dated 22.12.2014 on account of injuries/disability suffered by the claimant/respondent No.1.

Brief facts necessary for adjudication of this case are that, a petition under Sections 166/140 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') was filed by the claimant/respondent No.1 – Mohd. Amjad seeking compensation on account of the injuries/permanent disability to the extent of 100% suffered by him in a motor vehicle accident which took place on 30.05.2012.

Learned Tribunal on considering the facts and evidence on record concluded that the claimant received injuries in the accident in question which took place due to the rash and negligent driving of Van bearing registration No.DL-3CBU-3880 by its driver respondent No.2-Feroz Rasid.

While assessing income of the claimant as ₹1,61,190/- per annum on the basis of Income Tax Returns, especially Ex.P34 for the assessment year 2011-2012 which was filed before the accident in question, learned Tribunal added an increment at the rate of 50% on account of future prospects, applied multiplier of 16 and calculated loss of income to be ₹38,68,560/-. Learned Tribunal awarded a total sum of ₹47,80,992/-, which is detailed hereunder:-

Pain and sufferings	:	₹1,00,000/-
Treatment expenses	:	₹1,35,432/-
Future Medial expenses	:	₹1,00,000/-
Special diet, transportation and attendant charges	:	₹50,000/-
Future attendant	:	₹3,00,000/-
Loss of Income for 2 months	:	₹27,000/-
Loss of Income due to permanent disability	:	₹38,68,560/-
Loss of amenities	:	₹2,00,000/-

Aggrieved of the quantum of compensation, Insurance company has filed this appeal.

Learned counsel for the appellant-Insurance company argues that in view of the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***, increment on account of future prospects should be 40%, instead of 50%. It is further argued that interest should not be awarded to the claimant on the component of future medical expenses as well as the attendant charges. It is thus prayed that this appeal be allowed and compensation awarded to the claimant be reduced. As noted above, relief in this appeal is confined to the quantum of compensation as per statement of learned counsel for the appellant on 17.12.2015 at the time of issuance of notice of motion.

I have heard learned counsel for the parties and have gone through the available record.

There is no dispute regarding the claimant/respondent No.1 having suffered 100% permanent disability on account of 'compressed fracture L1 (operated) with fracture bilateral pedicle and dense of C2 vertebra with bowel and bladder involvement (post road traffic accident) and the patient does not have control over bowel and bladder movement'.

Learned counsel for respondent No.1 is unable to deny that increment on account of future prospects has to be awarded at the rate of 40%, instead of 50% in terms of the judgment of Hon'ble Supreme Court in Pranay Sethi's case (supra). Therefore, loss of income is reworked as ₹2,25,666/- [1,61,190 + (1,61,190 **x** 40%)], instead of ₹2,41,785/- assessed by the learned Tribunal.

However, I do not find any merit in the argument raised by learned counsel for the Insurance company that interest should not be awarded to the claimant on the compensation on account of future medical expenses and attendant charges. It is not in dispute that the claimant/respondent No.1 has suffered 100% disability on account of the injuries suffered by him in the accident in question. He does not even have control over his bowel and bladder movement due to fracture L1 with fracture bilateral pedicle and C2 vertebra with bowel and bladder involvement. He cannot even walk, though can sit with the help of support. Disability Certificate (Ex.PW12/A) is not in dispute. The claimant shall necessarily require an attendant all the times. Future medical expenses and attendant charges are imminent in such a situation. There is thus no illegality or infirmity in the amount of compensation awarded on the component of interest on future medical expenses and attendant charges.

Respondent-claimant is, thus, entitled to ₹47,64,873/- (47,80,992 – 16,119), instead of ₹47,80,992/-.

With the modification in the amount of compensation, this appeal is disposed of.

(LISA GILL)
JUDGE

March 27 , 2019.
'om'

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No