

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

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Date of decision: 11.12.2019

FAO No.3506 of 2015 (O&M)

Pardeep Kumar

... Appellant

Versus

Gur Dayal and others

... Respondents

FAO No.3507 of 2015 (O&M)

Anil

... Appellant

Versus

Gur Dayal and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram Kumar Saini, Advocate for the appellant.
Mr. Navin Kapur, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3506 and 3507 of 2015 as these have emerged out of the same award dated 02.12.2014 passed by the Motor Accidents Claims Tribunal, Hisar whereby compensation has been assessed on account of injuries sustained by Pardeep Kumar and Anil, in a motor vehicular accident that took place on 13.02.2013.

FAO No.3506 of 2015 has been filed by Pardeep Kumar for seeking enhancement of compensation whereas the other appeal has been filed by Anil for the same relief.

CM No.10401-CII of 2015 in FAO No.3506 of 2015

Heard.

Allowed as prayed for. Delay of 34 days in filing the appeal stands condoned.

FAO No.3506 of 2015

The Tribunal awarded Rs.1,28,800/-, detailed hereunder:-

Medical expenses	Rs.73,800/-
Pain and sufferings, mental shock and agony	Rs.10,000/-
Special diet	Rs.3000/-
Attendant charges	Rs.3000/-
Transportation	Rs.3000/-

Disability	Rs.24,000/-
Loss of income	Rs.12,000/-

Counsel for the appellant would argue that the injured remained hospitalised from 13.02.2013 to 20.02.2013 as he suffered compound comminuted fracture of right lower femur. It is further submitted that injured has been rendered permanently disable to the extent of 12%, in view of testimony of Dr. Reena Jain PW9 and disability certificate Ex.P77. It is argued that compensation allowed under various heads starting from pain and sufferings to loss of income is inadequate and merits enhancement.

Counsel representing the insurance company, on the contrary, would argue that injured has been adequately compensated.

The medical expenses to the tune of Rs.73,800/- allowed by the Tribunal is affirmed.

Taking into consideration the nature of injuries sustained coupled with period of hospitalisation and extent of disability suffered by the victim, interest of justice would be served, if the claimant is awarded additional amount of Rs.20,000/- under various heads. The same shall carry interest @ 7.5% per annum from the date of petition till realisation.

FAO No.3507 of 2015

The Tribunal awarded Rs.12,84,700/-, detailed hereunder:-

Medical expenses	Rs.2,11,500/-
Pain and sufferings, mental shock and agony	Rs.30,000/-
Special diet	Rs.18,000/-
Attendant charges	Rs.18,000/-
Transportation	Rs.10,000/-
Loss of income (for 3 months)	Rs.18,000/-
Loss of earnings	Rs.9,79,200/-

Counsel for the appellant would argue that the injured remained hospitalised on three different occasions from 13.02.2013 to 04.03.2013, 11.03.2013 to 12.03.2013 and 19.03.2013 to 23.03.2013. He suffered crush injury right upper limb with fracture lateral condyle of right femur with rupture right tendoachillis. He suffered permanent disability due to amputation of right arm to the tune of 80%, proved by Satish Kumar Verma PW8 and disability certificate Ex.P76. It is argued with vehemence that keeping in view the period of hospitalisation and nature of injury sustained rendering the claimant disable to the extent of 80% qua the whole body,

compensation allowed by the Tribunal under various heads merits enhancement.

The Tribunal has awarded Rs.2,11,500/- towards reimbursement of medical expenses and the same is affirmed.

The injured remained hospitalised on different intervals during the period from 13.02.2013 to 23.03.2013. The Tribunal has noticed that the injured might not have been able to work completely for about six months. Taking into consideration the period of treatment as an indoor patient and nature of injury sustained, the claimant is awarded total loss of income for the period of treatment and recovery for a period of five months and the same comes to Rs.30,000/- (additional amount of Rs.12,000/-).

Satish Kumar Verma PW8 had stated that injured suffered 80% permanent disability qua whole body. In the given circumstances, the injured shall be entitle to benefit of addition qua future prospects @ 40% as he was less than 40 years of age. Future loss of income qua disability is assessed at Rs.13,70,880/- $[(6000 \times 12 \times 17) + (40\% \text{ future prospects})] \times (80\% \text{ disability})$. The claimant is allowed additional amount of Rs.40,000/- under the heads pain and sufferings, mental shock and agony, special diet attendant charges, transportation including loss of amenities of life.

Total compensation is Rs.17,28,380/- and additional amount is Rs.4,43,680/- (17,28,380 – 12,84,700), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeals are partly allowed in the aforesaid terms.

11.12.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No