

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

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FAO-5347-2014 (O&M)

Date of decision: 16.12.2019

SURESH CHAND

... Appellant

Versus

BIRENDER@VIRENDER & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Jai Singh Yadav, Advocate for the appellant.
Mr. DP Gupta, 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 10.07.2010.

The Tribunal awarded Rs.4,23,171/- (rounded off to Rs.4,23,200/-), detailed in para 32 of the award, reads thus:-

Loss of income	Rs.18,000/-
Attendant charges	Rs.8000/-
Transportation	Rs.20,000/-
Medical expenses	Rs.3,42,171-
Pain and sufferings	Rs.25,000/-
Food and nourishment	Rs.10,000/-

Counsel for the parties are *ad idem* that there are certain mistakes while giving details of compensation under various heads particularly compensation qua medical expenses and loss of income on account of disability. They would further inform that Tribunal has accepted plea of the claimant for reimbursement of medical expenses to the tune of Rs.1,58,722/- and awarded Rs.3,24,000/- qua loss of future income on account of disability to the extent of 66% by taking functional disability to the extent of 40%.

Counsel for the insurance company has got no objection, if the award passed by the Tribunal is corrected accordingly.

Counsel for the appellant would argue that compensation allowed under various heads, in view of discussion in paras 21 onwards under issue No.2, is inadequate and merits enhancement.

Counsel for the insurance company, on the contrary, would submit that claimant has been adequately compensated.

The claimant produced documents with regard to medical expenses to the tune of Rs.1,58,722/-. The Tribunal has rejected his claim for Rs.700/- by holding that bill Ex.PW5/1 pertains to the period prior to the accident. Counsel for the appellant has not disputed this factual finding. Accordingly, the appellant shall be entitle to reimbursement of medical expenses to the tune of Rs.1,58,022/-.

The claimant remained hospitalised for a period of about 24 days w.e.f. 10.07.2011 to 16.07.2011 and 02.05.2012 to 18.05.2012. As per medico legal report Ex.PB, he sustained four injuries namely lacerated wound of different size, diffused swelling, bone of right knee was exposed. The Tribunal has allowed loss of income during the period of treatment and recovery for a period of four months. There is no clear evidence on record with regard to avocation and income of the victim before the occurrence. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the victim is assessed at Rs.4700/- per month. He is awarded loss of total income for a period of four months @ Rs.4700/- per month and the same comes to Rs.18,800/-. He shall be entitle to additional amount of Rs.2000/- with regard to attendant charges.

Compensation allowed under the heads transportation and special diet is affirmed. The claimant received treatment as an indoor patient for the aforesaid period. He was operated during his admission from 10.07.2011 to 16.7.2011 and that required further hospitalisation in Sai Heart and Trauma Centre, Badshahpur from 02.05.2012 to 18.05.2012. The injuries sustained in the occurrence resulted in shortening of lower limb by one inch on the basis whereof disability was assessed to the extent of 66%. Taking a cumulative and sympathetic view, appellant shall be entitle to Rs.40,000/- for pain and sufferings (additional amount of Rs.15,000/-).

The Tribunal has assessed functional disability to the extent of 40% and the same is affirmed. Loss with regard to future income would be assessed @ 4700/- per month. Accordingly, loss of future income is calculated at Rs.3,38,400/- (4700 x 12 x 15 x 40%). The appellant is

awarded Rs.25,000/- for loss of amenities of life.

Total compensation is Rs.6,22,222/- and additional amount is Rs.1,99,022/- (6,22,222 - 4,23,200) payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

16.12.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No