

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

211

FAO-6168-2014 (O&M)

Date of decision: 03.10.2019

NITIN MINOR THR HER MOTHER

... Appellant

Versus

RADHEY SHAYAM & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. SK Yadav, Advocate for the appellant.
Mr. Varun Sharma, 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 05.06.2013.

The Tribunal awarded Rs.2,40,000/-, detailed hereunder:-

Loss of future earnings	Rs.1,00,000/-
Loss of enjoyment and amenities of life	Rs.80,000/-
Special diet, attendant services and transportation	Rs.25,000/-
Pain and sufferings	Rs.35,000/-

Counsel for the appellant would argue that the injured suffered 40% disability on account of amputation through mid foot right. He was less than 18 years of age at the time of unfortunate occurrence. It is argued that in view of nature and extent of disability, he may be allowed compensation in the light of judgment of Hon'ble the Supreme Court **Master Mallikarjun Vs. Divisional Manager, The National Insurance Co. Ltd. and another, 2013(4) RCR (Civil) 295.**

Counsel representing the insurance company, on the contrary, has refuted the aforesaid contention with the submission that claimant has been adequately compensated.

Perusal of disability certificate dated 08.01.2014 reveals that injured has suffered amputation through mid foot (R) and permanent disability to the extent of 40%. There is no medical opinion available on record as to how this disability should be treated for assessing functional disability. Taking into consideration the age of victim coupled with nature and extent of disability suffered by him, it would be in the fitness of things,

if functional disability is assessed more than 10%. Accordingly, the claimant shall be entitle to Rs.3 lakh for pain and sufferings already undergone and to be suffered in future, mental and physical shock, hardship, in-convenience, discomfort etc. and loss of amenities in life on account of permanent disability.

The injured remained hospitalised for a period of 29 days. A sum of Rs.15,000/- is awarded for discomfort, inconvenience and loss of earnings to parents during period of hospitalisation.

Counsel for the appellant has fairly informed that since father of the injured is a member of armed forces, medical expenses incurred on his treatment have been reimbursed by his department. That being so, claimant shall not be entitle to medical and incidental expenses during his hospitalisation or future medical expenses. Total compensation is Rs.3,15,000/- and additional amount is Rs.75,000/- (3,15,000 – 2,40,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

03.10.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No