

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

FAO No. 4592 of 2016(O&M)

Date of decision: 24.1.2019

Hans Raj

.....Appellant

VERSUS

Sajjan Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Mr. Rajesh Verma, Advocate for respondent-Insurance
Company.

REKHA MITTAL, J. (Oral)

CM No.15872-CII of 2016

Prayer in this application is for condonation of delay of
390days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Vivek Suri, Advocate, the application is allowed and delay of
390 days in re-filing the appeal stands condoned, subject to the condition
that in case the appellant succeeds in appeal, he will forgo interest for the
period of delay.

Disposed of accordingly.

CM No.15873-CII of 2016

Prayer in this application is for condonation of delay of 146
days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Hans Raj, the appellant, the application is allowed and delay of 146 days in filing the appeal stands condoned, subject to the condition that in case the appellant succeeds in appeal, he will forgo interest for the period of delay.

Disposed of accordingly.

FAO No.4592 of 2016

Hans Raj, aged 16 years, preferred an application for grant of compensation in respect of injuries sustained by him in a motor vehicular accident that took place on 27.08.2012.

The Motor Accidents Claims Tribunal, Patiala (in short ‘the Tribunal’) has awarded compensation of Rs.5,30,000/- detailed hereunder:-

Reimbursement of Medical expenses	Rs.1,75,000/-
Loss of studies	Rs.20,000/-
Special diet	Rs.20,000/-
Attendant charges	Rs.20,000/-
Compensation qua disability	Rs.1,60,000/-
Mental and physical shock, pain and suffering	Rs.35,000/-
Damages for loss of expectation of life	Rs.50,000/-
Shortening of normal longevity, Inconvenience, hardship, discomfort, Disappointment, frustration and mental Stress in life	Rs.50,000/-

Counsel for the appellant would argue that the victim aged about 16 years at the relevant time suffered disability to the extent of 80%

on account of amputation of left leg above knee but the Tribunal has awarded a paltry sum of Rs.1,60,000/- at the rate of Rs.2,000/- per percent by relying upon Division Bench judgment of this Court **Ram Kiran Goyal Vs. Sub Divisional Engineer Mechanical and others, 2008(2) RCR (Civil) 103.** It is vehemently argued that compensation allowed by the Tribunal under this head is grossly inadequate and may be enhanced.

Counsel representing the insurance company would urge that the Tribunal has shown magnanimity in allowing compensation under various other heads, therefore, there is no justification for allowing compensation more than what has been allowed by the Tribunal.

Be that as it may, there is no denial that the victim was 16 years of age and a student of 9th class at the time of unfortunate occurrence rendering him disable to the extent of 80% on account of amputation of his left lower limb above knee. Hon'ble the Supreme Court in **Master Mallikarjun Vs. Divisional Manager, The National Insurance Company Ltd. and another, 2013(4) RCR (Civil) 295,** has held in para 12 reads as follows:-

“Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be

Rs.6 lakhs. For permanent disability upto 10%, it should be Re.1 lakh, unless there are exceptional circumstances to take different yardstick.”

Accordingly, the claimant is allowed a sum of Rs.5,00,000/- for pain and suffering already undergone and to be suffered in future, mental and physical shock, hardship, inconvenience and discomfort etc. and loss of amenities of life on account of permanent disability. Compensation allowed by the Tribunal to the tune of Rs.1,60,000/- for disability, Rs.35,000/- for mental and physical shock, pain and suffering and Rs.50,000/- each for loss of expectation of life and inconvenience, hardship etc. would be adjusted towards Rs.5,00,000/- allowed by this Court.

Compensation of Rs.1,75,000/- in respect of medical expenses is affirmed. The Tribunal has awarded a sum of Rs.20,000/- for loss of studies, another Rs.20,000/- for special diet and Rs.20,000/- for services of an attendant and the same is also affirmed. In this manner, total compensation is Rs.7,35,000/- and additional amount is Rs.2,05,000/- payable with interest at the rate of 7.5% per annum from the date of petition till realization, except for the period of delay of 390 days in re-filing and 146 days in filing of appeal. The additional amount shall be converted into a fixed deposit for five years but interest accruing thereon shall be paid to the claimant for meeting his expenses.

The appeal is partly allowed in the aforesaid terms.

JANUARY 24, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no