

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

FAO No. 5993 of 2015(O&M)

Date of decision: 10.7.2019

Waseem

.....Appellant

VERSUS

Safi Mohd and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Barjinder Singh, Advocate for
 Mr. Ashish Gupta, Advocate for the appellant.

Mr. M.B. Jain, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

A child aged 13 years, victim of the accident dated 21.12.2011 has filed the instant appeal seeking enhancement of compensation.

The Motor Accidents Claims Tribunal, Gurgaon (in short 'the Tribunal') has awarded Rs.11,01,310/- detailed hereunder:-

Loss of future income on account of permanent disability	Rs.5,00,000/-
Medical bills including bill Ex.P72 of Rs.3,73,675/- from Park Hospital, Delhi.	Rs.4,31,310/-
Transport and special diet	Rs.20,000/-
Pain and sufferings	Rs.50,000/-
Loss of basic amenities in life including bleak prospects of his marriage	Rs.1,00,000/-

Counsel for the appellant would argue that in view of nature and extent of disability suffered by the victim, proved by Dr. Farrukh PW-4, disability suffered by the victim may be treated as 100% and accordingly future loss of income may be assessed. No compensation has been paid by the Tribunal with regard to loss of income of the parents during treatment of the child who remained hospitalized for a period of approximately one month. He would pray for grant of compensation qua future medical treatment in the light of disability suffered by the victim.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal with the submission that the Tribunal has shown magnanimity in allowing compensation for pain and suffering and loss of amenities of life despite the fact that a sum of Rs.5,00,000/- has been awarded with regard to permanent disability in the light of judgment of Hon'ble the Supreme Court **Master Mallikarjun Vs. Divisional Manager National Insurance Company Ltd., 2013 (4) RCR (Civil) 295.**

I have heard counsel for the parties and perused the paper-book particularly the award.

Indisputably, the victim was minor aged about 13 years at the time of unfortunate occurrence which rendered him permanently disable to the extent of 75% as per the disability certificate Ex.P73. The Tribunal has awarded an amount of Rs.5,00,000/- for loss of future income besides awarding pain and suffering to the tune of Rs.50,000/- and loss of amenities of life and matrimonial prospects to the extent of Rs.1,00,000/-. Perusal of the judgment in **Master Mallikarjun's case** (supra) would reveal that the amount qua disability would also include pain and suffering and loss of amenities of life. In the given scenario, there is no justifiable

reason to allow additional compensation with regard to loss of future income. However, the Tribunal has not awarded compensation for loss of income of parents during period of treatment of the child or future medical expenses. Taking a reasonable and sympathetic view in the matter, claimant is awarded a sum of Rs.10,000/- for loss of income and Rs.25,000/- for future medical treatment. The additional amount of Rs.35,000/- shall carry interest at the rate of 7.5% per annum from the date of petition till realization. The same shall be invested in a fixed deposit in the name of minor. However, interest accruing on FDR shall be payable to his mother for meeting expenses of the child.

JULY 10, 2019

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no