

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

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FAO No.6106 of 2016 (O&M)

Date of decision: 27.09.2019

RAJ KUMAR

... Appellant

Versus

MADAN LAL AND ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajan Bhargava, Advocate for the appellant.
Mr. Punit Jain, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM No.20661-CII of 2016

Heard.

Allowed as prayed for. Delay of 27 days in filing the appeal stands condoned.

Main Case

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 21.11.2008.

The Tribunal awarded Rs.9,98,000/-, detailed hereunder:-

Medical expenses	Rs.4000/-
Pain and sufferings	Rs.20,000/-
Special diet and transportation	Rs.20,000/-
Compensation on account of disability	Rs.5,94,000/-
Attendant charges	Rs.3,60,000/-

Counsel for the appellant (appointed as amicus curiae) would argue that the injured was tailor by profession, running a shop under the name and style of Vishal Tailors at Railway Station, Kosli, District Rewari thereby earning Rs.20,000/- per month. He would further submit that income of the injured assessed by the Tribunal is grossly inadequate and needs enhancement. It is further argued that since the injured has suffered 100% disability, he is entitle to benefit of addition in income for future prospects as well. Adequate compensation may be allowed under other heads for which compensation has been allowed by the Tribunal. It is argued that the Tribunal has not awarded compensation for loss of amenities

of life and future medical treatment.

Counsel representing the insurance company, on the contrary, would argue that injured sustained injuries in November, 2008 and till date, no application was filed before this Court with regard to expenses on further medical treatment during the intervening period of 5 years since the claim application was filed before the Tribunal. It is further argued that claimant is not entitle to addition in income for future prospects.

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

The injured has suffered disability to the extent of 100% which is permanent in nature. The claimant examined Dr. Kanchan Yadav PW2 and Dr. Suman Tanwar PW5. Dr. Kanchan Yadav PW2 would depose that disability of Raj Kumar is 100% visual disability on account of bilateral optic artophy. She further deposed that there is possibility of optic atrophy following head injury mentioned in the MLR Ex.P3. The doctor has opined that chances of improvement in vision are very less.

There is no clear evidence on record with regard to injured working as a tailor prior to the occurrence much less his running a shop of tailoring. 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.3900/- per month. As the injured was 40 years old, admissible multiplier is 15. Taking into consideration the nature and extent of disability suffered by the victim, interest of justice would be served, if the entire 100% disability is taken into account but without allowing addition in income for future prospects to calculate future loss of income. In this manner, future loss of income is calculated at Rs.7,02,000/- (3900 x 12 x 15).

The appellant shall be entitle to Rs.1 lakh for loss of amenities of life. Compensation on account of pain and sufferings assessed by the Tribunal is enhanced to Rs.70,000/- (additional amount of Rs.50,000/-). Compensation allowed by the Tribunal under other heads is affirmed. In this manner, total compensation is Rs.12,56,000/- and additional amount is Rs.2,58,000/- (12,56,000 - 9,98,000), payable with interest @ 7.5% per annum from the date of petition till realization. The entire additional amount shall be invested in fixed deposit. Interest accruing thereon shall be paid to

the injured claimant. A copy of the judgment be sent at the given address of the injured in order to make him aware of the status of his case.

The appeal is partly allowed in the aforesaid terms.

27.09.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No