

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5480 of 2014(O&M)

Date of Decision: 8.3.2019

Pritam Singh

---Appellant

versus

Baljeet and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ajit Malik, Advocate
for the appellant

Mr. M.B.Jain, Advocate,
for the insurance company

Rekha Mittal, J.
CM No. 15260-CII of 2014

Heard.

Allowed as prayed for. Delay of 5 days in filing the appeal
stands condoned.

Disposed of accordingly.

FAO- 5480 of 2014

The claimant is in appeal seeking enhancement of
compensation on account of injuries sustained in a motor vehicular
accident that took place on 25.5.2010.

Affidavit of Raj Kumari wife of Pritam Singh through whom
the present appeal has been filed by the injured, with regard to present status
of Pritam Singh, in compliance with order dated 31.8.2018 filed in court, is
taken on record.

The Motor Accidents Claims Tribunal, Bhiwani (in short “the

Tribunal”) has awarded Rs. 27,31,306/- detailed hereunder:-

Medical expenses	Rs. 4,06,506/-
Loss of income on account of disability	Rs. 22,50,000/-
Pain and sufferings	Rs. 20,000/
Transportation expenses	Rs. 44,800/-
Special diet	Rs. 10,000/-

Counsel for the appellant would contend that while assessing loss of future income, the Tribunal has applied multiplier of 15 but the same should be 16 as the victim was 35 years, 05 months and 20 days old at the time of occurrence. Claimant is entitle to loss of amenities of life and services of an attendant, in view of his precarious condition that he is 100% disable and dependent upon others for his daily activities. It is further argued that compensation allowed by the Tribunal for pain and suffering, special diet, transportation charges etc. is on lower side and needs enhancement.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal. It is argued that as the injured was more than 35 years of age at the time of occurrence, the Tribunal has rightly applied multiplier of 15 for computing loss of future income. It is further argued that the Tribunal assessed income of the injured at DC rates whereas it should be as per notification issued by the State of Haryana fixing minimum wage at the relevant time.

Be that as it may, the Tribunal has assessed loss of future income by treating the present case to be the one of total loss on account of 100% disability suffered by the victim. As the victim has been rendered bed-ridden on account of disability suffered by him, loss of future income is liable to be assessed by extending benefit of addition in income for future

prospects. The victim was 35 years, 05 months and 20 days old. As per the judgment **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, admissible multiplier for the age group 31 to 35 is 16 and from 36 to 40, it is 15. Nothing has been mentioned in the judgment as to how the multiplier would be applied if the victim happens to be less than 36 years but more than 35 years. In the present case, the victim was less than six months beyond 35 years. Taking into consideration that provisions dealing with compensation are benevolent social legislation, multiplier of 16 would be applied for computing loss of future income.

The Tribunal has assessed income of the victim at Rs. 12,500/- per month in view of statement of Anil Kumar PW8, Clerk from ITI, Meham District Rohtak on the basis of record pertaining to Pritam Singh, Draftsman Mechanical Instructor working on DC rates in ITI Meham. The Tribunal has not assessed income of the victim on the basis of DC rates but on the basis of actual income derived by him while working as Draftsman Mechanical Instructor, Meham. That being so, no fault can be found in assessment of income made by the Tribunal. In view of the above, loss of future income qua disability is calculated at **Rs. 33,60,000/-** [12,500 x 12 x16 =24,00,000 + 9,60,000 (40%)].

The Tribunal has awarded **Rs. 4,06,506/-** towards medical expenses and the same is affirmed. Claimant shall be entitle to **Rs. 50,000/-** for pain and sufferings and **Rs. 25,000/-** for loss of amenities of life. He is awarded a sum of **Rs. 25,000/-** for future medical treatment. Compensation allowed by the Tribunal for transportation charges and special diet is affirmed.

The injured is bed ridden and leading a vegetative life. He is

dependent upon his family for his day-to-day activities. Perusal of affidavit of Raj Kumari would reveal that family has not availed services of an outsider for attending to the victim. In view of the above, the claimant shall be entitle to a sum of **Rs. 2 lakhs** for services of an attendant.

Total compensation is Rs. 41,21,306/-(Rs. 33,60,000 + 4,06,506 + 50,000 + 25,000 + 25,000 + 44,800 + 10,000 + 2,00,000) and the additional amount is **Rs. 13,90,000/-** (41,21,306 -27,31,306), payable with interest @ 7.5% per annum from the date of petition till realization. The additional amount shall be invested in a fixed deposit in the name of the claimant but interest accruing thereon shall be paid to wife of the victim for meeting necessary expenses as the Tribunal has already given liberty to withdraw the amount for meeting out expenses of treatment and other necessary needs of the victim.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

8.3.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No