

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

FAO No. 4596 of 2014(O&M)

Date of decision: 19.9.2019

Gurdeep SinghAppellant

VERSUS

Jasvir Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Tarun Singla, Advocate for the appellant.

Mr. Rajbir Singh, Advocate for insurance company.

REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Ludhiana (in short 'the Tribunal') on account of injuries sustained in a motor vehicular accident that took place on 05.04.2009.

The Tribunal awarded Rs.11,97,133/- detailed hereunder:-

Pain and suffering	Rs.10,000/-
Medical expenses	Rs.6,24,493/-
Loss of income during the period of treatment	Rs.10,000/-
Loss of amenities and unhappiness	Rs.10,000/-
Loss of future income	Rs.5,42,640/-

Counsel for the appellant would argue that in para 18 of the award, the Tribunal has awarded Rs.1,00,000/- for pain and suffering but while making calculation, the amount has been mentioned as Rs.10,000/-.

He has further argued that compensation awarded in respect of loss of

income during the period of treatment, loss of amenities of life is grossly inadequate. Appellant may be allowed compensation for special diet, transportation and services of an attendant.

Counsel for the insurance company, on the contrary, would argue that entire disability to the extent of 28% has been taken into account for assessing loss of future income even in absence of any findings that the disability is functional in nature.

Dr. Sudesh Kumar, Medical Officer, Civil Hospital, Raikot was examined to prove disability and disability certificate Ex.PW5/1. He has deposed that victim was examined by Medical Board on 24.08.2011 and found to have 28% permanent disability due to border line intelligence with restriction of movements of right knee with unilateral cross bite right side. In cross examination, he has deposed that he cannot comment whether disability is qua organ or whole body of the patient.

Taking into consideration the nature and extent of disability, I do not find any reason to intervene in assessment of compensation with regard to future loss of income.

Reimbursement of medical expenses is affirmed. The Tribunal has awarded a sum of Rs.1,00,000/- towards pain and sufferings but while making calculations the amount under this head is mentioned as Rs.10,000/-. Claimant shall be entitle to Rs.1,00,000/- for pain and sufferings. The claimant is allowed Rs.1,00,000/- for loss of amenities of life and matrimonial prospects. He is awarded Rs.20,000/- for transportation expenses, special diet and services of an attendant. As the Tribunal has assessed future loss of income by applying multiplier method,

there is no justification for allowing additional compensation with regard to loss of income during the period of treatment and recovery.

In view of the above, total compensation is Rs.13,87,133/- and the additional amount is Rs.1,90,000/- (Rs.13,87,133/- - Rs.11,97,133/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization. The additional amount shall be invested in fixed deposit and interest accruing thereon shall be paid to the injured.

The appeal is partly allowed in the aforesaid terms.

SEPTEMBER 19, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no