

Baljeet Singh

....Appellant

Versus

Sushil and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Kusum Raj, Advocate for
Mr. Yash Dev Kaushik, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No. 3.

ANIL KSHETARPAL, J. (ORAL)

The appellant prays for enhancement of compensation awarded by Motor Accident Claims Tribunal, Faridabad. According to the finding of learned Motor Accident Claims Tribunal, the appellant suffered 75% disability. The tribunal has discussed the medical evidence in the following manner:-

Ex. P69 is the discharge summary revealing that the petitioner was admitted for the third time at Apollo Hospital on 17.03.2009 as a follow up case of crushed right leg. He was admitted for the purpose of removal of the implant i.e. K-wires and was discharged on 19.03.2009. Ex. P70 is the certificate as issued by Dr. K.B. Atri-PW12, as per which the petitioner has been advised another surgery debridement and bone grafting, for which it is likely to incur expenses of Rs. 75,000/-.

Ex. PW7/A is a copy of disability certificate issued by office of Civil Surgeon, Faridabad on 05.09.2009. It reveals that the Medical Board after examining the petitioner assessed the disability of the petitioner to be

united with infected bones, complete restricted movement of knee with loss of sensation in right leg and foot. Movement of right leg is restricted completely and petitioner was found unable to stand or walk.”

Keeping in view the aforesaid facts, learned Motor Accident Claims Tribunal has awarded compensation under following heads:-

Head	Amount (Rs.)
Medical Expenses	3,45,000/-
Transportation	10,000/-
Attendant	15,000/-
Special Diet	5,000/-
Loss of earnings	25,000/-
Pain & Sufferings	50,000/-
Disability; Likely loss of amenities of life, loss of expectations, inconvenience, hardship, discomfort, disappointment, frustration and mental stress etc.	1,50,000/-
Total	6,00,000/-

Learned counsel appearing for the appellant submits that the appellant has not been granted compensation under the head, loss of future income. She submits that earning capacity of the appellant stood reduced because of permanent disability suffered by the appellant. She further submitted that appellant was at that time running a laboratory in Faridabad. According to the learned counsel for the appellant, age of the appellant was between 26 to 30 years at the time of accident. She has further stated that the learned Motor Accident Claims Tribunal has also awarded a meagre sum for special diet.

On the other hand, learned counsel for the insurance company submits that the accident took place on 21.02.2008 and the appellant has already been granted appropriate compensation.

On careful consideration of the arguments put forth by the learned counsel for the parties, this Court is of the view that learned Motor Accident Claims Tribunal has erred in granting insufficient compensation to the appellant. The appellant, as is clear from medical evidence extracted above, had to undergo repeated surgeries and treatment for sufficient length of time, still the bones did not unite. There is complete restriction in the movement of knee with loss of sensation in right leg and foot. Appellant was unable to stand or walk.

Learned Motor Accident Claims Tribunal has assessed the last income of the appellant to be Rs. 5,000/- per month. In such circumstances, when appellant is found unable to stand or walk, there is bound to be loss of reduction in the earning capacity. Accordingly, the loss of income is assessed at Rs. 3,750/- per month. Thus, the yearly loss of income comes to Rs. 45,000/-. Keeping in view the age of the appellant at the time of accident, multiplier of 17 would be appropriate to be applied. Thus, the amount comes to Rs. 7,65,000/-. Some provision has to be made for increase of income in future. The appellant was a young man when he suffered injuries in a motor vehicular accident resulting in crippling his life permanently. Thus 40% of the income is required to be added.

On account of special diet also, the amount awarded by the learned Motor Accident Claims Tribunal is found insufficient and the same is revised to Rs. 25,000/- which would include Rs. 5,000/- already awarded.

Learned counsel for the respondent-insurance company has stated that the compensation awarded under the head of Disability; Likely loss of amenities of life, loss of expectations, inconvenience, hardship, discomfort, disappointment, frustration and mental stress etc. would cover loss of future income also.

On consideration of the matter, this Court finds that argument of learned counsel for the insurance company can not be accepted.

In view thereof, the compensation is enhanced to Rs. 10,91,000/-. The enhanced compensation shall be payable along with interest @ 7.5% from the date of claim petition till payment.

(ANIL KSHETARPAL)
JUDGE

15.01.2020
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	No