

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

-.-

FAO 5728 of 2016 (O&M)

Date of decision: 28.02.2020

Rahul

.....Appellant

Versus

Vinod Kumar etc.

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Ashok Kaushik, Advocate
for the appellant

Mr. Punit Jain, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

CM 19751 CII of 2016

Prayer in this application is for condoning delay of 34 days in
filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit and arguments advanced, the application is allowed and delay of
34 days in filing the appeal stands condoned.

Main case

The claimant is in appeal seeking additional compensation on
account of injuries sustained in a motor vehicular accident that took place
on 18.02.2015.

Rahul, the injured victim is present in the Court. He suffered amputation of left lower limb below knee and uses artificial limb.

The Tribunal awarded Rs.4,00,000/-, detailed hereunder:-

-Reimbursement of medical expenses and price of prosthesis	Rs.1,70,000/-
-Pain and suffering, services of attendant and special diet.	Rs.20,000/-
- Transportation	Rs.10,000/-
-Loss of income	Rs.50,000/-
-Disability	Rs.1,50,000/-

Counsel for the appellant would argue that before the accident, the claimant was working as Lathe operator with M/s A1 Tools and Gauges, Ballabgarh at monthly salary of Rs.10,000/-, though the Tribunal has held that the injured was earning Rs.9,000/- per month. It is further argued that in view of nature and extent of disability suffered by the victim, he may be awarded compensation by applying multiplier method by assessing functional disability, in view of age of the victim. It is further argued that compensation allowed for pain and sufferings, services of an attendant, special diet, transportation etc. is grossly inadequate and needs enhancement.

Counsel representing the insurance company, on the contrary, would argue that except attendance and salary register, no other document was brought on record by Sat Narain (PW2) examined to prove employment and salary of the victim. In addition, it is argued that the claimant, in his testimony, has deposed that he was a student as well as working at the relevant time. It is further argued that neither any document has been produced by claimant nor by Sat Narain (PW2) in respect of payment of salary to Rahul.

The Tribunal has allowed reimbursement of medical expenses to the tune of Rs.1,15,000/- based upon bills Ex. P10 to Ex. P15 and Ex.21 to Ex.41 and Rs.55,000/- for prothesis and the same is affirmed. As the claimant has suffered amputation of left leg below knee, he would be requiring to change prothesis after some interval. He is awarded additional amount of Rs.55,000/- with regard to expenses of prothesis.

The injured remained hospitalized at different interval but total period of hospitalization is approximately 10-15 days. The injury rendered him disable to the extent of 50% on account of amputation of left leg below knee. The claimant is awarded Rs.50,000/- for pain and sufferings. He is awarded additional sum of Rs.10,000/- for services of an attendant, special diet and transportation.

The claimant examined Sat Narain (PW2) to prove his avocation and income. The witness produced attendance and salary register and copies thereof Ex.P5 to Ex.P9. The insurance company has not preferred any appeal nor cross objections to assail findings of the Tribunal with regard to income of victim. There is no clear evidence on record that even with the use of prothesis, the claimant would not be able to work as Lathe Operator. As has been noticed hereinbefore, the claimant appeared in the Court and he is able to walk without instability with use of artificial limb. In view of the above, functional disability is assessed at 35%. The victim was 21 years old at that time. Accordingly, he is awarded Rs.6,80,400/- ($\text{Rs.9,000} \times 12 \times 18 \times 35/100$) for future loss of income. Compensation allowed by the Tribunal with regard to loss of income and disability would be adjusted out of loss of future income. The claimant is

awarded Rs.35,000/- for loss of amenities of life. Total compensation is Rs.10,10,400/- and additional amount is Rs.6,10,400/- payable with interest at the rate of 7.5% per annum from the date of petition till realization.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

28.02.2020
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No