

In the High Court of Punjab and Haryana at Chandigarh

FAO- 6893 of 2015 (O&M)
Date of Decision: 13.2.2020

Himanshu

---Appellant

versus

Rajpal and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Atul Yadav, Advocate
for the appellant

Ms. Sheenu Sura, Advocate,
for the insurance company

Rekha Mittal, J.

The claimant is in appeal seeking additional compensation on account of injuries sustained in a motor vehicular accident that took place on 5.4.2013.

The Motor Accidents Claims Tribunal, Gurgaon (in short “the Tribunal”) awarded Rs.4,84,498/- (rounded off to Rs. 4,84,500/-) detailed hereunder:-

Medical expenses	Rs. 1,98,498/-
Expenses for transportation	Rs. 10,000/-
Expenses for special diet	Rs. 10,000/-
Loss of earning during the period of treatment/admission	Rs. 30,000/-
Loss of future prospects on account of 38% permanent disability	Rs. 2,16,000/-
Pain, suffering and trauma as a consequence of grievous injuries	Rs. 20,000/-

Counsel for the appellant would argue that injured remained

hospitalized for a period of approximately three months on three different intervals from 5.4.2013 to 26.4.2013, 7.1.2014 to 6.2.2014 and 7.2.2014 to 6.3.2014 but Tribunal has not awarded any compensation with regard to services of an attendant during hospitalization and for period of recovery.

Another submission made by counsel is that injured was 18 years old at the time of unfortunate occurrence that rendered him disable to the extent of 38% on account of shortening of right limb and stiffness of right knee but Tribunal has calculated loss of future income by considering functional disability to the tune of 20%. The injured was working as a Clerk with an Advocate before the accident and loss of income during period of treatment and recovery as well as future loss may be assessed accordingly.

Counsel representing the insurance company, on the contrary, would argue that Tribunal has shown magnanimity in awarding compensation under various heads.

The Tribunal has allowed reimbursement of medical expenses based on bills amounting to Rs. 1,98,498/-. The claimant is awarded **Rs. 2,00,000/-** in respect of medical expenses. The injured remained hospitalized for the aforesaid period in different hospitals at Rewari. The injured is resident of village Inchhapuri, Police Station Pataudi District Gurgaon.

Counsel for the appellant in response to a query, would inform that distance between village of the injured and Rewari is approximately 20 kms. In the given circumstances, claimant is awarded **Rs. 20,000/-** (additional amount of Rs. 10,000/-) for expenses on transportation. He is awarded **Rs. 15,000/-** for services of an attendant during hospitalization and

recovery after discharge. Compensation for special diet would be **Rs. 15000/-** (additional amount of Rs. 5000/-). He is entitle to additional compensation of **Rs. 10,000/-** for pain and sufferings.

The injured suffered disability to the extent of 38% to a particular limb. There is no opinion by an expert as to how this disability can be considered for computing functional disability. Taking into consideration nature of job being performed by the injured prior to the accident, there is no reason to make any addition with regard to extent of disability suffered by the victim. The accident took place in the year 2013. Taking a clue from notification issued by the State of Haryana fixing minimum wage coupled with that the injured was working as a clerk with an Advocate, monthly income of the deceased is assessed at Rs. 5600/-. Accordingly, loss of earning during the period of treatment and recovery is enhanced to **Rs.33,600/- (5600 x6)**.

Loss of income on account of disability is assessed to the tune of Rs. 2,41,920/-(5600 x12x18x20%)

Total compensation is Rs. 5,55,520/- and the additional amount is Rs.71,020/- payable with interest @ 7.5% per annum from the date of petition till realization.

(Rekha Mittal)
Judge

13.2.2020

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No