FAO No. 422 of 1993 (O&M)

Madan Lal Papneja v. State of Haryana

2010 SCC OnLine P&H 11527 : 2012 ACJ 199

(BEFORE K. KANNAN, J.)

Madan Lal Papneja ..... Appellant

v.

State of Haryana and others ..... Respondents

Mr. Rajnish Narula, Advocate, for the appellant.

Mr. Kunal Garg, AAG, Haryana, for respondent No. 1.

Mr. Ravinder Arora, Advocate, for respondent No. 2.

Mr. Sanjiv Pabbi, Advocate, for respondent No. 3.

FAO No. 422 of 1993 (O&M)

Decided on November 12, 2010

K. Kannan, J. *(Oral)*

I. Appeal for enhancement of compensation for injuries

1. Against an award granting Rs. 17,700/- for the injuries suffered in the accident, there is a claim for enhancement through the appeal. The appellant is said to have suffered injuries in his arm and leg that caused fractures and he was an in-patient for 7 days and was taking treatment as an out-patient for 4 months. His contention was that the injuries have left him severely disabled and the doctor, who was treating him, was examined as PW2, who had stated that the claimant had fracture of shaft of humerous on the right side and other multiple injuries. The award has been passed only against the Haryana State Roadways. The appeal is as regards quantum and no plea is made questioning the issue of liability as already determined by the Tribunal. Before the Tribunal, claimant examined himself and gave evidence to the effect that by virtue of injuries, he had suffered loss of income for 4 months and he had incurred medical expenses to the tune of more than Rs. 10,000/-. He gave evidence to the effect that he had incurred Rs. 3,000/- towards conveyance charges and had the assistance of physio therapist and had paid to him Rs. 4,000/-. He stated that he spent Rs. 10,000/- for special diet. Against all these claims, the Tribunal had awarded Rs. 5,700/- towards medical expenses, Rs. 10,000/- for pain and suffering and Rs. 2,000/- towards physio therapist charges and others.

II. Arbitrary mode of assessment of compensation for injuries - a recurrent theme.

2. The claims for compensation for injuries have at all times been arbitrary and in the perception of a claimant, no award is appropriate and it has to be invariably assailed in an appellate forum. The reasons are not far to seek. While pecuniary damages could be easily assessed, non-pecuniary damages like pain and suffering, disability, loss of amenities for life and loss of earning power are all open to various degrees of assessment and each Tribunal or Court adopts different parameters or perhaps no parameter at all before awarding compensation. Consequently, the satisfaction quotient in injury cases are dismally poor. I would propose therefore to provide for a

certain homogeneity in approach by laying down a formula to address all claims in injuries cases on a uniform and what I believe, will be an acceptable basis.

III. Need to avoid ad hocism and arbitrariness, in the matter of compensation for injuries

3. It is necessary to ward off arbitrariness and ad hocism in the manner of assessment of compensation for injuries. If the claim is made under Sch 2, under section 163A, there is no major difficulty, since the various heads of claim are statutorily provided and there is no scope for prevarication. Again, if the injury results in privation of organs, the scale provided under the Workmen's Compensation Act for assessment of percentage of loss of earning power is a good guide for the Tribunal to follow. The confusion is worst confounded only, when the assessment is made by a doctor, say, regarding shortening of limb after an injury or a surgical reduction of fracture, or when there is mal-union of fracture and the disability is assessed in terms of percentage. When a doctor assesses disability, he invariably assesses a functional disability of the particular organ that is affected. This is misunderstood on several occasions as equivalent to loss of earning capacity and the multiplier is applied by working out the percentage of disability on the total income as though it is also the percentage of loss of earning power. Where multiplier is not applied, some Courts make a readymade application of Rs. 1,000 to Rs. 2,000 for every percentage of disability suffered. This is wholly an unsatisfactory method of determining compensation.

IV. Heads of claim in injury cases

4. In all accident claims relating to injuries, there are broadly two large heads of claims, viz, **pecuniary and non-pecuniary damages**. The pecuniary damages are invariably driven through documentary evidence. The Tribunal shall therefore avoid arbitrariness by merely conjecturing damages and look for evidence placed by the claimant. The following are the pecuniary heads of claims: (i) Loss of income [Several High Courts have awarded compensation even for sick leave on full pay. See ***KERSAP Ardeshir Mehta v. Union of India-1986 ACJ 1002 (Bom)***; ***Union of India v. Yashwant Singh-1987 ACJ 437 (MP); Behra Ram v. Bhiya Ram-1990 ACJ 724 (Raj);*** See for contra view*:* ***Rama Bai v. H. Mukunda Kamath-1986 ACJ 561 (Kant)***] (ii) Transport hospital; (iii) Attendant charges; (iv) Diet and nutrition and (v) Medical expenses. The tribunal shall elicit at the trial all the above heads correctly or as nearly as possible and shall not venture on its own estimation without basis. The practice of adding some amounts over and above the medical bills on a wide statement that all bills could not have been made available as justification for making further additions shall at all times be avoided.

V. Subjective component in non-pecuniary heads, cause for arbitrariness

5. The non-pecuniary heads are (i) pain and suffering; (ii) loss of amenities of life; (iii) loss due to reduction in expectation of life; (iv) loss of prospects of marriage and (v) loss of earning capacity. Here, whatever amounts are determined they are ad hoc and seldom gravitate to certitude. For the same reason, the fastidious claimant ever clamours for enhancement.

VI. Amounts suggested and the basis

(a) Pain and suffering

6. In the matter of determination of pain and suffering, there is hardly any guidance of how it shall be determined. Sch 2 in the MV Act caps the claim to Rs. 5000 for

grievous injuries and to Rs. 1000 for non-grievous injuries. Having regard to the fact that the schedule was drawn 2 decades back and there has been a fall in value of money, I would propose the amount to be Rs. 7500 for every grievous injury resulting in fracture of a limb, Rs. 7500 for loss of tooth and Rs. 2500 for every additional tooth, and Rs. 2500 for non-grievous injury. For head injury, resulting in fracture of cranium, the amount could be Rs. 15,000. Suppose a person has a fracture of the upper limb and another fracture of lower limb, the damages due to pain and suffering may provide for Rs. 15,000. If there is a fracture of a limb and abrasions in the rest of the body, damages to the tune of Rs. 10,000 could be provided for. If fracture is reduced by surgical intervention, an additional amount of Rs. 5000 for the trauma for operation may be provided for. Surgical reduction is the modern substitute for conservative clinical management to shorten the span of suffering but it has other drawbacks, like hospitalization, securing attendants, risk due to anaesthesia, additional drug intakes, future hospitalization and additional expenses; and hence the provision for relatively a higher sum for pain and suffering due to surgical interventions. It must be remembered that the Workmen's Compensation Act provides a fixed sum on the basis of loss of earning capacity and a multiplication though a factor provided under the Schedule to the Act secures a sum that is slightly larger than the financial equivalent to the actual loss, since the Act makes no provision for medical expenses and for pain and suffering. Here, under MV Act, we provide separately for loss of income and medical expenses as distinct heads.

(b) Loss of amenities of life

7. Loss of amenities of life is another admissible head that is subjective and our attempt must therefore be to provide for some amount which deprives a person the felicity of free ambulation and convenience. A human being is no machine. Amusement and entertainment add necessary spice to life. A person handicapped to walk or run or gallop at his will is a person crippled just not in body but in mind and spirit as well. A person that cannot ride on a two wheeler or drive his vehicle is fettered in his mobility and becomes dependent on others for his free movement. A person that is confined to bed draws sympathy from others and becomes a burden on others. Depending on the gravity of the injury and what a person cannot do or how a person becomes dependent on others or any form of deprivation of material pleasures shall become relevant. To a child that is young and to an old person, the yardstick cannot be the same. The scale has to be on a descending gradient and could range between Rs. 1,00,000 to Rs. 25,000. Again the quantum has to be different for privation of leg and hand. Here, perceptions may change. It is difficult to judge what causes greater disability. A loss of lower limb affects mobility and hence, in my view, a greater amount. A mal-union of a fracture or shortening of limb by a few cms. or inches have but cosmetic value and some functional impairment and the compensation has to be modest and reasonable. The disability may either be permanent or temporary. For permanent disability, which is capable of ascertainment in terms of percentage of functional disability of the particular organ of the body that is affected, the amount could be Rs. 1000 for every % of permanent disability and Rs. 250 for every % of temporary disability.

VII. Disability assessment, as per government guidelines

8. In all cases resulting in grievous injuries that include fractures that further result in disablement, temporary or permanent, there is a practice to simply accept whatever the doctor assesses. There is hardly ever any cross examination in the disability assessment to the doctor, except a suggestion that his assessment is high. It is important to know how the assessment is made and what the percentage of disability

signifies. In order to review the guidelines for evaluation of various disabilities and procedure for certification and to recommend appropriate modification/alterations, a committee was set up in 1988 by the Government of India, Ministry of Social Justice & Empowerment under the Chairmanship, DGHS, GOI with subcommittee, one each in the area of Mental Retardation, Locomotor/Orthopaedic, Visual and Speech & Hearing disability. After considering the reports of committee, keeping in view the provisions of Persons with Disabilities (Equal opportunities, Protection of rights and Full participation) Act 1995, guidelines for evaluation of following disabilities and procedure for certification was notified vide no. 'The Gazette of India, Extra ordinary Part-II Section 1, Dated 13, June 2001' for:

1. Visual Impairment

2. Locomotor /Orthopedic Disability

3. Speech and Hearing Disability

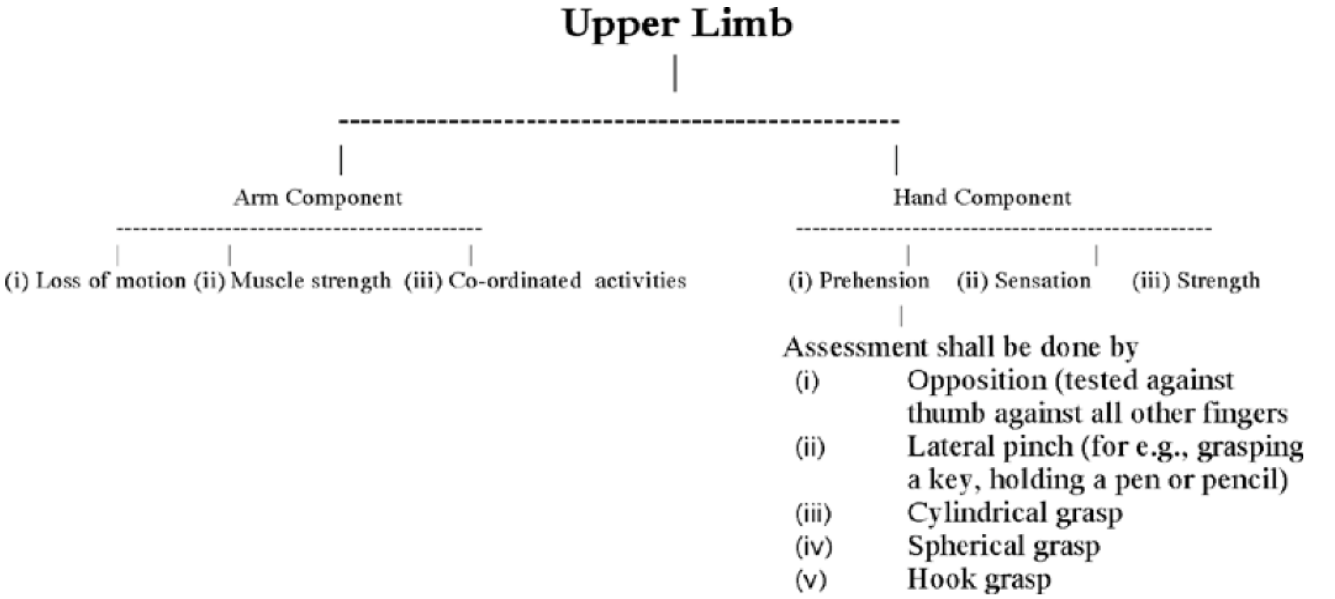
4. Mental Retardation

5. Multiple Disabilities

9. In the guidelines, the functional (permanent physical impairment or PPI) due to congenital, post disease or trauma have been evaluated. This is commonly interpreted as disability which is not so, in strict terms. In case of loco motor conditions, broadly, the body has been divided into upper limb, lower limb & trunk. In principle, the function of one part cannot be replaced by other, therefore each functional part in itself is 100% and thus loss of function/ PPI of that part is taken as 100%. On the other hand, the whole body value cannot exceed 100%. Thus in case the impairment is seen in more than one function or body part, the mathematical sum may exceed 100 but total of body/individual cannot exceed 100%. Thus a total of one or all segments of body cannot exceed 100% in any situation.

10. The guidelines shall be applied for determining the % of disability. If a doctor or a medical board makes an assessment there shall be no mistake in accepting the same, prima facie. However, if the assessment is doubted, it is necessary to cross-verify with the mode of assessment prescribed under the guidelines [The method of computation is meant only to provide a theoretical basis for an inquisitive judge/lawyer/litigant]. Broadly, it necessary to know that the injury to upper limb is assessed thus:

a) Upper limb assessment



11. (i) The value of maximum range of motion (ROM) in the arm component is 90%. Each of the three joints of the arm (shoulder, elbow and wrist) is weighed equally, i.e., 30% or 0.30. This could be understood through an illustration. A fracture of the right shoulder may affect ROM so that active abduction (abduct is to draw away from the medial line of the body) is reduced to say, 90^0. It is possible to take the arm thrown downwards from alongside the leg to touch the ear by abducting it to 180^0. The relative loss is 50% of its efficacy, but in terms of the arm component, the % of loss shall be 50 × 0.30 = 15% loss of motion for the arm component. If more than one joint is involved, the same method is applied and the losses in each of the affected joints are added. If the loss of abduction of the shoulder is 60^0, loss of extension of wrist (as opposed to bending, extending means straightening. Medically, they are referred respectively as palmar flexion and dorsi flexion) is 40^0, then the loss of range of motion for the arm is (60 × 0.30) + (40 × 0.30) = 30%.

(ii) The strength of muscles could be tested by manual testing like 0-5 grading.

0. - 100% (complete paralysis)

1. - 80% (flicker of contraction only)

2. - 60% (power detected when gravity is excluded, i.e., when the arm moves sideways and not upwards against gravity)

3. - 40% (movement against force of gravity but not against examiner's resistance)

4. - 20% (minimal weakness)

5. - 0% (normal strength)

The mean percentage of muscle strength loss is multiplied by 0.30. If there has been a loss of muscle strength of more than one joint, the values are added as has been described for loss of ROM.

(iii) Principles of evaluation of co-ordinated activities shall be:

a. The total value for co-ordinate activities is 90%

b. Each activity has value of 9%

(iv) Combining the values for the arm component:

The value of loss of function of arm component is obtained by combining the values of ROM, muscle strength and co-ordinated activities, using the following formula:

$\frac{a + b\,(90 - a)}{90}$, where 'a' will be the higher score and 'b' will be the lower score.

12. The total value of hand component is 90%.

i) The principles of evaluation of prehension include:

a). Opposition (8%) tested against index finger (2%), middle finger (2%), ring finger (2%) and little finger (2%).

b). Lateral pinch (5%) tested by asking the patient to hold a key.

c). Cylindrical grasp (6%) tested for (a) large object 4" size (3%) and small object 1" size (3%)

d). Spherical grasp (6%) tested for (a)large object 4" size (3%) and small object 1" size (3%)

e.) Hook grasp (5%) tested by asking the patient to lift a bag.

ii) Principles of evaluation of sensations:

Total **value of sensation is 30%.** It includes, 1. Radial side of thumb (4.8%, that is the outer side), 2. Ulnar side of thumb (1.2%, that is the inner side), 3. radial side of each finger (4.8%) and 4. Ulnar side of each finger (1.2%). Total **value of strength is 30%.** It includes, 1. Grip strength (20%), 2. Pinch strength (10%). 10% additional weightage is to be given to the following factors viz., 1. Infection; 2. Deformity; 3. Mal -alignment; 4. Contractures; 5. Abnormal mobility (when a person has a wobbly hand, for example); 6. Dominant extremity (4%), i.e., depending on the lack of strength.

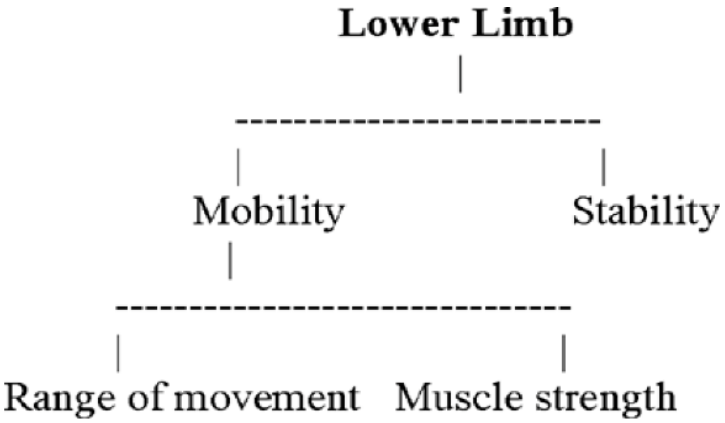
iii) Combining value of the hand component shall mean the final value or loss of function of hand component obtained by summing up of loss of prehension, sensation and strength.

iv) Applying the formula mentioned in the preceding paragraph, the % of disability for the combined arm and hand components could be calculated. If the impairment of the arm is say 27% and impairment of the hand is 64%, the combined value is:

$64 - \frac{27(90-64)}{90} = 71.8\%$, where 64 is the higher value and 27 is the lower value.

b) Lower limb assessment

13. The lower extremity is divided into mobility component and stability component. Mobility component includes range of movement and muscle strength. To put it graphically,



(i) The value of maximum ROM in the mobility component is 90%. Each of the 3 joints, i.e., hip, knee, foot-ankle is weighed equally at 30% or 0.30. For example, a fracture of the right hip affects range of motion, so that active abduction is 27^0 against the abduction of 54^0 found for the left hip. There is a 50% relative loss of abduction. The % of loss of mobility component is 50 × 0.30=15%. If more than one joint is involved, the same method as applied above is applied and the losses in each of the affected joints are added. For example, if the loss of abduction of the hip is 60% and loss of extension is 40%, the loss of ROM for mobility component is (60 × 0.30) + (40 × 0.30)=30%.

(ii) Principles of evaluation of muscle strength consists of: (1) Taking the value for muscle strength in the leg to be 90% and (2) Taking the strength of muscle tested by manual testing like 0 to 5 grading:

Grade 0 - 100%

Grade 1 - 80%

Grade 2 60%

Grade 3 40%

Grade 4 20%

Grade 5 0%

The mean % of muscle strength loss is first multiplied by 0.30. If there has been a loss of muscle strength of more than one joint, the values are added as described for ROM.

(iii) Combining values of mobility component. Suppose an individual has a fracture of the right hip joint and has in addition to 16% loss of motion, 8% loss of strength muscles, combining the values, the disability is:

$$16\text{----------} \frac{8(90-16)}{90} = 22.6\%$$

(iv) Principle of evaluating the stability component consists of taking the total value as 90% and tested on 'scale method' and clinical method.

c) Traumatic and non-traumatic leisions

14. Cervical spine fractures are assessed on the basis of evaluation of vertebral compressions, fragmentation, involvement of posterior elements, nerve root involvement of posterior elements and moderate neck rigidity. They are assessed by X ray examination and treated surgically. Cervical inter-vertebral disc disorders, thoracic and dorso-lumbar spine fractures resulting in acute pain, paraplegia, vertebral compression resulting in severe pain, neurogenic low back disc injuries resulting in severe pain are assessed on a scale of 0 to 100%. Without the accompaniment of any compression, fractures or leisions, there could be persistent muscle spasm, stiffness of spine with mild, moderate to severe radiological changes are assessed in the range of 0 to 30%.

VIII. Efficacy of disability of assessment

a) Assessment of compensation for pain.

15. In the manner of assessment of pain and suffering, the disability assessed will be a good guide to know how the particular injury affects performance in the work place and elsewhere. Head injury or spinal injury are sometimes regressive and lead to further complications like epilepsy, numbness, acute pain and spasms. There is a need to know the real sufferer from a malingerer. Expert's evidence through a doctor will help the tribunal in determining the appropriate response to prayer for compensation.

b) Translating disability into loss of earning power

16. All injuries and assessments of disability do not impact the earning capacity [***Orissa State Road Transport Corporation v. Bhanu Prakash Joshi-(1994) 1 ACC 467 (Ori); New India Insurance Company Ltd v. Rajauna-(1996) 1 TAC 149 (Kant); Balaiah (T.) v. Abdul Majeed-AIR 1994 AP 354***]; nor in a similar way. The disability has to be seen in the context of the particular occupation or calling that the victim is engaged in. For instance, a mal-union of fracture in the lower limb and stiffness at the knee for a professional driver of motor vehicle may completely make him unfit to be a driver. In ***Oriental Insurance Company Limited v. Koti Koti Reddy-2000(2) LLJ 552 (AP),*** the injuries caused to the claimant were on the forehead and right leg, particularly at joint and foot. The permanent disability was assessed at 30% by the doctor and due to calcanian fracture, it was in evidence that he could not work as driver. The WC Commissioner assessed the loss of earning capacity as 100% and the HC upheld the assessment. A deformity of the hand could affect a carpenter differently than how it may be irrelevant for, say, a telephone operator. In ***Pratap Narain Singh Deo v. Srinvas Sabata-AIR 1976 SC 222***, an amputation of the arm of a carpenter was taken to result in 100% loss of earning capacity; In ***Sadasihiv Krishan Adke v. M/s Time Traders-1992 (1) LLJ 877***, a coolie lost his leg. The injury to his leg resulted in his walking with crutches and the Court assessed the loss of earning capacity to be 100%. The attempt at the trial shall always be to elicit how the particular percentage of disability has affected the job that the person was doing and if not suitable for the same job, to what other type of employment that he or she is fit for, in the changed circumstances and what is likely to be the loss of income. With the passing of Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, a person may continue in the same employment, notwithstanding such disability, the ascertainment of loss of earning capacity will still be relevant to know the employability of the person in open market with the particular disability. The continuance of employment despite the injury may not itself dis-entitle the person from claiming compensation. Posing the

question what such injury results, the Madras High Court said in ***The Management of Sree Lalithambika Enterprises, Salem v. S. Kailasam- 1988 (1) LLJ 63*** that the employer may continue an injured person in employment and deny that any loss of earning capacity has resulted in spite of privation of an organ. This, the court said, could not be supported and cannot be the intendment of the WC Act. To the same effect, see ***Executive Engineer, PWD, Udaipur v. Narain Lal-(1977) 2 LLN 415, 1977 LIC 1827 (Raj)***. It must be noticed both the Workmen's Compensation Act and the MV Act use the expression loss of earning capacity differently from disability per se and without making reference to the claimant's evidence and the expert opinion of a doctor, it will be arbitrary to simply take the % of disability as % of loss of earning capacity. If a Tribunal assesses compensation at a fixed sum for every % of disability, it will result in overlapping of claims if assessment of loss of earning capacity is independently assessed. There are certain recent decisions of the Supreme Court itself *[**Arvind Kumar Mishra v. New India Assurance Co Ltd and another C.A. No. 5510 of 2005 dated Sep. 29, 2010; Yadav Kumar v. The Divisional Manager, National Insurance Co. Ltd & another C.A. No. 7223 of 2010, dated Aug.31, 2010**]*, where the % of disability assessed has been taken as synonymous with % of loss of earning power, but it must be assumed that the court took the value of % of disability to be the same as % of earning power, having regard to the special facts and circumstances. When the loss of earning power and compensation are determined, it is not necessary to make any deduction for personal expenses, as we do, for determining dependency for claimants in fatal accidents. The reason is obvious; the claimant is alive to receive the whole loss of income in injury cases and this principle has also been recognized in ***Oriental Insurance Co Ltd. v. Ram Prasad-(2009) 2 SCC 712***.

IX. Future medical expenses

17. The question of providing for future medical expenses was specifically dealt with by the Supreme Court in ***Nagappa v. Gurudayal Singh-AIR 2003 SC 674, (2003) 2 SCC 274*** when it observed that the MV Act does not provide for further award after a final award is passed. Therefore in a case where injury to a victim requires periodical medical expenses, fresh award cannot be passed or previous award cannot be reviewed, when medical expenses are incurred after finalization of the award. Hence, the only alternative is that at the time of passing of final award, the Tribunal should consider such eventuality and determine compensation accordingly. It is most desirable that the Tribunal elicits from the doctor himself if a future medical treatment shall be necessary and the likely expenses.

X. Preparation of a template

18. It will be worthwhile to prepare a template to answer every head of claim specifically, while determining compensation for injuries. It shall be necessary for the Tribunal to elicit evidence on each of the heads and not indulge in conjectures for pecuniary damages; and for non-pecuniary damages, take a uniform approach to be applied for every case dealt with by it. I would propose a rough estimate in each case. It is no Euclid's theorem to remain immutable for all times to come. The Tribunal may examine local conditions and periodically update them to conform to what are appropriate. Again, the figures given against each head under pecuniary damages are imaginary and specific evidence shall be secured for each of the pecuniary heads of claim. However, the amounts suggested for non-pecuniary heads may be actively considered for implementation.

Pecuniary damages

1. Loss of income -

2. Transport to hospital -

3. Attendant charges @ 750/ month

4. Diet & Nutrition 2500

5. Medical Expenses

Hospital charges 2500

Surgery 5000

Consultation 1000

Medicines 5000

Future medical expenses-

Non-pecuniary damages

6. Pain & Suffering Per fracture 7,500

Or, Per surgery for reduction of fracture 12,500 (7,500 + 5,000)

7. Loss of amenities of life in case of amputation

a. Child Leg 1,00,000

Hand 75,000

b. Adult

Leg 75,000

Hand 50,000

c. Senior citizen Leg/Hand 25,000

8. Loss of prospects of marriage 25,000.

9. Disability that causes

no loss of earning,

for example, mal-union

of fracture that impairs

the normal function of

the particular organ

functional disability

Per cent. 1,000

10. Disability that causes loss of earning power Income × % of loss of earning power × multiplier

Total

If compensation for loss of amenities is provided for amputation, compensation for disability for functional loss need not be separately provided. Loss of amenities need not be restricted only to amputees. The said head of claim could be awarded also in cases of functional disability of organs, depending on how they may affect the quality of life. The template is only to draw attention to the parties at the trial that there shall be evidence against each head before anyone can expect suitable reliefs for injuries. Against monetary claims in the template which I have suggested in the preceding paragraphs, viz., claims for loss of income, medical expenses, special diet, transport, there shall be specific evidence.

XI. Present dispensation

19. Against pecuniary damages, no amount has been awarded for loss of income for 4 months which I shall provide @ Rs. 3,400/- per month as sought for by the claimant and quantify the loss at Rs. 13,600/-. Towards transport, a claim of Rs. 3,000/- had been made but no amount has been granted. I will grant to him the transport expenses at Rs. 3,000/-since he has had fairly a long period of treatment spanning to about 4 months. Towards medicines, the Court has granted Rs. 5,700/-. I shall retain the same. Towards attendant charges, which I understand as including charges for physio therapist, the Tribunal has awarded Rs. 2,000/- which also I shall retain. The Tribunal has granted Rs. 10,000/- towards pain and suffering. I retain the same. Before the Tribunal, he has stated that he has frozen shoulder and he is unable to write. Doctor himself has given evidence stating that the fracture had united but with mal-union and due to the injuries, he had developed frozen shoulder and he cannot undertake any heavy work. He could, however, do writing work and he could eat with his right hand but still with little pain in the process. The doctor has assessed his disability at 30%. In this case, I have already examined in the above paragraphs the various components of activities possible through an arm and how the disability is assessed for the hand, arm and the wrist components. If the disability is permanent and if he has gone through an enormous inconvenience and suffering, I would quantify the compensation for disability at Rs. 1,000/- for every percentage and provide the compensation for disability at Rs. 30,000/-. Since the disability has not resulted in loss of earning power, I make no provision for loss of future earning. In all, the total amount of compensation would come to Rs. 64,300/-. The amount in excess over what has been determined already by the Tribunal shall attract interest at 6% from the date of petition till date of payment.

20. A tabular representation of the claim makes for easier visual, and hence adopted as under:-Sr. No. Heads of claim Amount

1. Loss of income for 4 months @ Rs. 3,400/- per month 13,600

2. Transport 3,000

3. Medical expenses :

Medicines 5,700 7,700

Physio-therapy 2,000

4. Pain and suffering 10,000

5. Disability 30% @ Rs. 1,000 per % of disability. 30,000

Total 64,300

Interest at 6% over the amount in excess of what has already been awarded viz for Rs. 46,600/- (64,300-17,700=46,600/-)

21. The appeal is allowed on the above terms.

(K. KANNAN)

JUDGE

12.11.2010 sanjeev

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