

**Court No. - 2**

**Case :-** FIRST APPEAL FROM ORDER No. - 67 of 1999

**Appellant :-** Prahlad

**Respondent :-** Narendra Bhartiya Driver And Others

**Counsel for Appellant :-** Madhav Jain

**Hon'ble Saral Srivastava,J.**

1. Heard Sri Madhav Jain, learned counsel for the appellant and Sri Anubhav Sinha, learned counsel for the respondents.

2. The present appeal has been preferred by the claimant/appellant for enhancement of compensation.

3. It is contended by the learned counsel for the appellant that right leg below the knee of the claimant/appellant has been amputated because of the injuries suffered by him in the accident with Truck No.R.N.Q-7031. It is contended that as per the Schedule 1 framed under Section 2(1) & (4) of the Employees' Compensation Act, 1923, the injuries suffered by the claimant/appellant falls at Serial No.20 which shows that in case of amputation of leg below the knee, the injured person suffers 50% loss earning capacity. Accordingly, it is submitted that Tribunal should have taken 50% loss earning capacity of the claimant/appellant in computing the compensation. It is further submitted that the accident had taken place in the year 1990 and Tribunal should have taken at least Rs.10,000/- per annum as income of the claimant/appellant even if he was a student.

4. It is further submitted that no amount towards future prospect has been awarded by the Tribunal whereas considering the age of the claimant, he is entitled to 40% towards future prospect in view of the judgement of Apex Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar & Others, AIR 2020 SC 4424**. It is further submitted that Tribunal has erred in law in awarding lump-sum award whereas considering the age of the claimant/appellant, Tribunal should have applied the multiplier of 18 in view of the judgement of Apex Court in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121**. It is also urged that Tribunal has not awarded any amount towards pain and suffering and special diet whereas considering the nature of injury suffered by claimant/appellant, Tribunal should have

awarded at least Rs.25,000/- towards pain and suffering and special diet.

5. Per contra, learned counsel for the respondents would contend that claimant/appellant was student and there is nothing on record which indicate that claimant/appellant suffered any loss earning capacity. It is contended that compensation awarded by the Tribunal is just and fair and does not call for any warrant by this Court in appeal.

6. I have considered the rival submissions of the parties and perused the record.

7. It is not in dispute that right leg of the claimant/appellant below the knee has been amputated. Further, as per the Schedule-1 framed under Section 2(1) & (4) of the Employees' Compensation Act, 1923, the injuries suffered by the claimant/appellant falls at Serial No.20 of the schedule which shows that in case of amputation of leg below the knee, the injured person suffers 50% loss earning capacity. In such view of the fact, this Court holds that claimant/appellant has suffered 50% loss earning capacity in the accident.

8. The submission of learned counsel for the claimant/appellant in respect of assessment of income of the claimant/appellant has substance. Accordingly, it is provided that Tribunal should have taken the income of the claimant/appellant to be Rs.10,000/- per annum for the purpose of computation of compensation.

9. The submission of learned counsel for the claimant/appellant in respect of non-granting any amount towards future prospect has also got force in view of the judgement of Apex Court in the case of **Pappu Deo Yadav (supra)** and thus, this Court awards 40% towards future prospect to the claimant.

10. So far as the submission of learned counsel for the claimant/appellant in respect of wrong application of multiplier is concerned, the said submission is supported by the judgement of Apex Court in the case of **Sarla Verma (supra)** and thus, it is provided that enhanced amount of compensation should be computed by applying the multiplier of 18.

11. In view of the fact that the accident had taken place in the year 1990 and right leg of the claimant has been amputated, this Court awards Rs.25,000/- towards pain and suffering and special diet.

12. It is also provided that enhanced amount of compensation shall carry 6% simple interest from the date of institution of claim petition till the date of its payment.

13. Thus, for the reasons given above, the appeal is partly ***allowed*** and the award of the Tribunal is modified to the extent indicated above. The Insurance Company is directed to pay the enhanced amount of compensation to the claimant/appellant within a period of three months from the date of production of a certified copy of this order. There shall be no order as to costs.

**Order Date :- 13.10.2023**

Sattyarth