

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 1017 of 2001

Appellant :- Raghunath

Respondent :- Jaichand And Others

Counsel for Appellant :- B.P.Verma

Counsel for Respondent :- Abhishek Ahuja

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The claimant/appellant being dissatisfied with the quantum of compensation has preferred the present appeal with a prayer for enhancement of compensation.

3. Challenging the award, learned counsel for the appellant has contended that in the instant case, the claimant/appellant suffered injuries in the accident and because of the accident, his right leg below knee was amputated. It is submitted that as the claimant/appellant is a driver and because of injuries suffered by him in the accident, he cannot carry on the duty of driver any more, and thus, the loss earning capacity suffered by the appellant is 100%. In support of his contention, he has placed reliance upon the judgment of Apex Court in the case of ***Syed Sadiq and Ors. Vs. Divisional Manager, United India Insurance Company, (2014) 2 SCC 735.***

4. It is further submitted that no amount towards future prospect has been awarded by the Tribunal whereas considering the age of the claimant/injured, he is entitled to 40% towards future prospect in view of the judgment of Apex Court in the case of **Pappu Deo**

Yadav Vs. Naresh Kumar & Others AIR 2020 SC 4424. It is submitted that considering the age of the claimant/injured the Tribunal should have applied the multiplier of 18 in view of the judgment of the Apex Court in the case of **Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (6) SCC 121** in computing the compensation. It is further submitted that considering the nature of injury suffered by the claimant/injured, the Tribunal ought to have awarded at least Rs.25,000/- towards pain and suffering.

5. Per contra, learned counsel for the respondents would contend that the compensation awarded by the Tribunal is just and proper and does not call for any interference by this Court. It is submitted that the adequate compensation has been paid to the appellant, and therefore, the appellant has failed to make out any ground for enhancement of compensation.

6. Be that as it may, the record reveals that the claimant/appellant suffered injuries in the accident in right leg by offending vehicle i.e. Tanker No.U.P.81-E-9005. It has also come on record that the claimant/appellant was a driver and because of the injuries suffered in the accident, his right leg has been amputated. Since the claimant/appellant was a driver and his right leg has been amputated, therefore, it is evident that he cannot do driving any more, and therefore, in view of the judgment of Apex Court in the case of **Syed Sadiq (supra)**, the claimant/appellant suffered 100% loss earning capacity. In such view of the fact, it is provided that the compensation shall be computed by treating 100% loss earning capacity suffered by the claimant/appellant.

7. The submission of learned counsel for the claimant/appellant in respect of future prospect has got force in view of the judgment of

Apex Court in the case of **Pappu Deo Yadav (supra)** and thus, following the aforesaid judgment of Apex Court, claimant/appellant is entitled to 40% towards future prospect.

8. So far as the submission of learned counsel for the claimant/appellant in respect of wrong application of multiplier has also substance in view of the judgment of Apex Court in the case of **Sarla Verma (supra)**. Thus, it is provided that compensation should be computed by applying the multiplier of 18.

9. The submission of learned counsel for the claimant/appellant with regard to compensation towards pain and suffering has also got substance. Accordingly, this Court holds that the claimant/injured is entitled to Rs.25,000/- towards pain and suffering.

10. 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.

11. 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 :- 16.11.2023

R.S. Tiwari