

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

FAO No. 4707 of 2002 (O&M)

Date of decision : 07.02.2017

Amandeep Singh

.....Appellant

Versus

Malkiat Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Ms. Manpreet Kaur, Advocate for
Mr. Yogesh Goel, Advocate for appellant.

Mr. H. S. Gharoo, Advocate for
Mr. Vijay Kumar Garg, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 16.09.2001, passed by the learned Motor Accidents Claims Tribunal, Ludhiana (hereinafter called the “Tribunal”) in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellant-claimant has been awarded compensation to the tune of ₹2,59,000/- on account of the injuries suffered by him in the motor vehicular accident which took place on 19.06.1996.

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

3. I have heard learned counsel for the parties and gone through the paper-book meticulously.

4. Learned counsel appearing for the appellant-claimant contended that the appellant was a young man of 21 years of age. He has suffered 54% permanent disability as a result of injuries caused in this accident. The learned Tribunal has awarded inadequate compensation on account of permanent disability. She further contended that the appellant has remained hospitalized for number of days. Even he underwent surgical procedures and had suffered serious injuries but less amount has been awarded towards pain and suffering. The claimant has also not been awarded any amount towards transportation and attendant charges. Less amount has been awarded to the claimant towards adverse affect on his matrimonial prospects and enjoyment of life. Thus, she contended that the just amount of compensation has not been awarded.

5. On the other hand, learned counsel appearing for the respondent-Insurance company contended that the learned Tribunal has awarded a total amount of ₹2,59,000/- as compensation to the claimant. The learned Tribunal has taken into consideration all the heads in order to assess the compensation. The claimant was just a student having no income. Hence, it cannot be stated that less amount has been awarded towards loss of future earning on account of permanent disability. Thus, he contended that there is no scope of any further enhancement.

6. I have duly considered the aforesaid contentions.

7. The impugned award shows that appellant-claimant has not led any evidence to prove his income. In the claim petition, he has alleged

that he had plan to start a business of scooter/motorcycle spare parts after completing his graduation, but he was silent about his earning when he stepped into the witness box as PW-9. However, there is no denial to the fact that the claimant was a young man of 21 years of age. Keeping in view the date of the accident, even by working as a unskilled labourer he could have easily earned ₹1500/- per month *i.e.* ₹18,000/- per annum. As per the disability certificate Ex.PW5/1 appellant-claimant Amandeep Singh has suffered permanent disability to the extent of 54%. The Hon'ble Supreme Court in case ***Raj Kumar Vs. Ajay Kumar and another 2011 ACJ 1*** has laid down that loss of future earning cannot be assessed on the basis of percentage of the permanent disability but that has to be assessed on the basis of percentage of functional disability *i.e.* effect or impact of such permanent disability on his earning capacity. In that case the claimant had suffered 45% permanent disability but the Hon'ble Apex Court has considered the permanent functional disability to the extent of 25% and loss of future earning capacity as 20%. In view of the aforesaid ratio of law laid down by Hon'ble Apex Court, though the appellant-claimant has suffered 54% disability but only 35% of his disability shall be taken to be his functional disability having impact on his future earning capacity. The suitable multiplier has to be applied in order to compute the compensation. Keeping in view the age of the appellant-claimant, the multiplier of 18 shall be applicable. Thus, the amount of compensation on account of loss of future earning capacity due to permanent disability comes to ₹1,13,400/-

(18,000 x 35 x 18 / 100).

8. Learned Tribunal has awarded ₹10,000/- to the appellant-claimant towards pain and sufferings. From the medical evidence brought on record and the statement of PW-6 Dr. S.C. Goel and PW-10 Dr. Samir Dogra, it comes out that the claimant has remained admitted in the hospital for considerable long period. He has also undergone surgical procedures. Thus, he has suffered lot of pain and suffering on account of injuries suffered in this accident. So, he will be entitled to a sum of ₹20,000/- towards pain and sufferings. The learned Tribunal has not awarded any amount of compensation to the claimant towards transportation and attendant charges. He will be entitled to ₹5000/- towards transportation charges and ₹5000/- towards attendant charges. The learned Tribunal has awarded ₹25,000/- on account of diminished chances of any appropriate matrimonial alliance. The said amount is also inadequate and enhanced to ₹50,000/-.

9. In this way, the enhanced amount of compensation payable to the claimant is detailed as under:-

Sr. No.	Heads of compensation	Amount of compensation awarded by the Tribunal (<i>in rupees</i>)	Amount of compensation enhanced by this Court (<i>in rupees</i>)
1.	Loss of future earning capacity on account of permanent disability	96,000	1,13,400/-
2.	Pain and suffering	10,000	20,000
3.	Transportation charges	-	5000
4.	Attendant charges	-	5000

5.	Diminished chances of any appropriate matrimonial alliance	25,000	50,000
6.	Special diet	5000	5000 (no change)
7.	Treatment and medicine expenses	1,23,254	1,23,254 (no change)
Total		2,59,254/-	3,21,654

10. In this way, the appellant-claimant shall be entitled to a total some of ₹3,21,654/-.

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to ₹3,21,654/- from ₹2,59,000/- as awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 45 days from today, failing which the appellant-claimant shall be entitled to interest on the enhanced amount of compensation @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain the same as determined by the learned Tribunal in the main award.

07.02.2017

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No