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

FAO No.4250 of 2014 (O&M)

Date of Decision: 08.11.2017

Yog Raj

... Appellant

Versus

Tarsem Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Raj Kumar Rana, Advocate for the appellant.

Mr. Ravinder Arora, Advocate
for respondent No.3 - Insurance Company.

B.S. Walia, J. (Oral)

1. Present appeal has been filed by the claimant seeking enhancement of compensation on account of injuries sustained by him in an accident on 01.05.2011.

2. The appellant, at the time of accident, was 52 years of age and was welder by profession running his own shop. On the basis of evidence led by the parties, learned Tribunal assessed the earning of the claimant-appellant at Rs.5,000/- per month. By taking period of three month during which the claimant-appellant was hospitalized and remained under treatment, a sum of Rs.15,000/- was awarded on account of loss of income for the above said period.

3. Claimant-appellant has claimed enhancement on the following

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grounds:-

- (i) Loss of income for a period of 10 months instead of three months;
- (ii) Future loss of income on account of functional disability due to loss of vision which was assessed at 30% permanent disability;
- (iii) Loss of amenities of life.

4. Learned counsel for the appellant by referring to paragraph No.13 of the award highlighted that the claimant-appellant remained hospitalized/under treatment intermittently during the period 01.05.2011 to 29.02.2012. Learned counsel contends that the appellant having remained hospitalized/ under treatment intermittently for a period of ten months, compensation on account of loss of income has to be awarded for ten months and not for three months. Accordingly, instead of sum of Rs.15,000/- awarded on account of loss of income, Rs.50,000/- has to be awarded on account of loss of income. Learned Counsel for the appellant further contended that the appellant had suffered 30% permanent disability on account of loss of vision in one eye sight. Since the appellant was a Welder, therefore, 30% disability had to be treated as a functional disability, accordingly, compensation has to be awarded on account of future loss of income.

5. Learned Counsel contended that the appellant would be entitled to a sum of Rs.1,98,000/- on account of future loss of income on account of functional disability. Details of the computation are reproduced as under:-

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Sr. No	Particulars	Amount
1	Income assessed (on account of 30% permanent disability) (30% of Rs.5000)= Rs.1500/- per month	Rs.1,500/-
2	Future loss of income on account of 30% functional disability Net Income after applying multiplier of 11 =(1500 x 12 x 11) = 1,98,000/-	Rs.1,98,000/-

6. Learned counsel for the appellant next contended that the appellant having suffered a permanent loss of vision of 30 % and being only 52 years of age the same would entail a serious loss in the amenities of life as well. Accordingly, learned counsel contended that the appellant would be entitled to compensation on account of loss of amenities of life as well. Learned Counsel quantified the loss at Rs.50,000/- on account of loss of amenities of life.

7. Learned Counsel for the respondent-Insurance Company has not been able to dispute the period during which the appellant remained hospitalized/under treatment i.e. from 01.05.2011 to 29.02.2012 though with breaks. Accordingly, it is held that the period during which the appellant suffered loss of income would be the entire period during which the appellant remained hospitalized/under treatment i.e. from 01.05.2011 to 29.02.2012 i.e. ten months though with breaks. Accordingly, instead of Rs.15,000/- awarded by the learned Tribunal on account of loss of income for three months, the appellant would be entitled to a sum of Rs.50,000/- on account of loss of income for ten months.

8. As regards the claim for future loss of income, learned counsel for respondent No.3-Insurance Company contended that although there was functional disability to the extent of 30 % on account of

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permanent disability in the vision of one eye sight, yet the same had to be computed by excluding the period of ten months during which the appellant had been awarded full amount of earning per month.

9. Taking into account the fact that compensation is being awarded to the appellant on account of future loss of income and the appellant has been awarded a sum of Rs.50,000/- on account of loss of income for ten months during the period he remained hospitalized/under treatment though with breaks, it is held that compensation on account of future loss of income due to functional disability will be payable for the period after expiry of ten months for which the appellant has been awarded Rs.50,000/- on account of loss of income.

10. As regards the loss of amenities of life, learned counsel are in agreement that Rs.25,000/- be awarded to the appellant in view of the decision of this Court in **“Amar Singh Versus Rajinder Parshad and Ors., 2011(2) Law Herald 1256”**. Paragraph 5 of the aforementioned decision is reproduced herein:

“I will reappraise the compensation making the due provision for the fractures that had resulted to the patient and the injuries that he has undergone and provide for Rs.5,000/- for every fracture and for surgical intervention an amount of Rs.2,500/-. Having regard to the long hospitalization for more than a month and prolonged treatment with impairment in his vision, I would also provide for attendant charges and special diet. He has stated that he was running a Karyana shop and he was earning Rs.1500-2000/- per month. It was his evidence on account of his injury he could not work for three months. I will take his income as Rs.1,500/- per month and therefore reassess the compensation

to provide for loss of income for three months and also the future loss of earning capacity by adopting 50% loss as having resulted and apply a multiplier of 17. A young person of 27 years to suffer serious impairments in his vision, ought to have been a serious loss in the amenities of his life as well. The overall compensation is tabulated hereunder:-

Sr. No.	Head of Claim	Amount (in Rs.)
1	Loss of income	4,500/-
2	Medical expenses	5,000/-
3	Attendant charges	5,000/-
4	Special Diet	2,500/-
5	Transport	1,000/-
6	Pain and suffering	25,000/-
7	Loss of earning capacity	1,53,000/-
8	Loss of amenities	50,000/-
	Total	2,46,000/-

Accordingly, a sum of Rs.25,000/- is awarded to the appellant on account of loss of amenities of life.

11. Out of Rs.1,98,000/- awarded on account of future loss of income due to functional disability, a sum of Rs.60,000/- which has been awarded to the appellant on account of disability by the learned Tribunal has to be reduced.

12. Resultantly, appellant would be entitled to the following amount:

Sr. No	Nature of expenses to be awarded	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)	Total amount to be awarded (in Rs.)
1	Medical expenses	25,000/-	No change	25,000/-
2	Pain and suffering	20,000/-	No change	20,000/-
3	Nutritious diet	6,000/-	No change	6,000/-
4	Attendant charges	6,000/-	No change	6,000/-
5	Transportation charges	5,000/-	No change	5,000/-
6	On account of disability	60,000/-	No change	60,000/-

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Sr. No	Nature of expenses to be awarded	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)	Total amount to be awarded (in Rs.)
7	Future loss of income on account of functional disability due to 30% permanent disability due to loss of vision	Nil	(1,98,000-60,000)= 1,38,000/-	1,38,000/-
8	Loss of income during treatment (50000-15000 = 35000)	15,000/-	50,000/-	50,000/-
9	On account of loss of amenities	Nil	25,000/-	25,000/-
	Total	1,37,000/-	3,35,000/-	3,35,000/-

13. Accordingly, the appeal is allowed in the aforementioned terms and the award of the Tribunal is modified to the extent that the appellant is held entitled to enhanced compensation of Rs.3,35,000/- alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization, less amount, if any, already paid as per details given above.

[B.S. WALIA]
JUDGE

November 08, 2017.

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Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No