

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

FAO No. 673 of 2016

DATE OF DECISION : 29.09.2017

Vinod Kumar

.... APPELLANT

Versus

Bharat Singh alias Bittu and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Dalel Singh Nain, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.3 – Insurance Company.

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AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 03.10.2015 passed by the Motor Accident Claims Tribunal, Kaithal (for short 'the Tribunal') in MACT Case No. 77 of 2014.

On 13.04.2014, appellant Vinod Kumar, aged 32 years, met with a motor vehicular accident. He was working as a Conductor-cum-second driver on canter bearing registration No. HR-56A-3474. The said canter was parked on the left side/unmetalled portion of the road and the appellant was standing near it. A Qualis jeep bearing registration No. HR-64-6578 came from opposite direction and hit into a motor cycle bearing

registration No. HR-08D-5864. The said Qualis jeep was being driven in a rash and negligent manner, after it struck against the motor cycle, it hit into the canter. As a result of this, the appellant suffered injury on his head and left leg, which resulted into amputation of his left leg. He was taken to Government Hospital, Kaithal, from where he was referred to PGI, Chandigarh. His leg was amputated at PGI, Chandigarh, where he remained admitted from 14.04.2014 to 28.04.2014.

A claim petition under Section 166 of the Motor Vehicles Act, 1988, was filed by the appellant.

The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 6,79,000/- along with interest at the rate of 9% per annum.

Aggrieved of the said award, the present appeal has been filed by the claimant for enhancement of compensation.

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellant argued that the appellant had suffered 80% disability of limb, which resulted into 40% whole body disability. He further argued that Dr. R.K. Singla, Retired SMO, stepped into the witness box and deposed regarding disability of the appellant. Learned counsel argued that the Tribunal has assessed income of the appellant as ₹ 6,000/- per month and there was no dispute that there was 40% disability of the whole body of the appellant, yet the monthly loss of income has been assessed at ₹ 2,000/-, which is on the lower side. Learned counsel for the

appellant further contended that the amount of ₹ 10,000/- awarded for transportation is on lower side. He further argued that the amounts awarded by the Tribunal under other heads also need enhancement.

Learned counsel for respondent No.3 – Insurance Company has defended the award passed by the Tribunal. He has argued that the amount awarded by the Tribunal does not require any enhancement.

The contentions raised by learned counsel for the appellant deserve acceptance. The Hon'ble Apex Court has time and again held that multiplier method should be adopted for assessing the loss of income on account of disability. In the present case, monthly loss of income of the appellant is assessed at $6000 \times 40\% = 2400/-$, and by applying the multiplier of 16, loss of earnings due to disability is assessed as $2400 \times 16 \times 12 = ₹ 4,60,800/-$.

A young person, who has lost his one leg, would be needing transportation not only for medical treatment, but thereafter also. The amount of ₹ 10,000/- awarded for transportation is, therefore, enhanced to ₹ 20,000/-.

The appellant had suffered pain and sufferings during the period of his treatment. For rest of his life, he will have to suffer pain and loss of social status. Therefore, the compensation awarded for pain and suffering is enhanced from ₹ 30,000/- to ₹ 1,00,000/-. The amount spent for special diet is also enhanced from ₹ 10,000/- to ₹ 15,000/-.

Consequently, the amount awarded by the Tribunal under

various heads is enhanced, as per the table given below :-

<i>Head</i>	<i>Amount awarded by the Tribunal</i>	<i>Now awarded by this court</i>
Loss of future income	₹ 3,84,000/-	₹ 4,60,800/- (enhanced by ₹ 76,800/-)
Medical expenses	₹ 1,65,000/-	₹ 1,65,000/- (no enhancement)
Loss of amenities	₹ 80,000/-	₹ 80,000/- (no enhancement)
Transportation	₹ 10,000/-	₹ 20,000/- (enhanced by ₹ 10,000/-)
Pain and suffering	₹ 30,000/-	₹ 1,00,000/- (enhanced by ₹ 70,000/-)
Healthy Diet	₹ 10,000/-	₹ 15,000/- (enhanced by ₹ 5,000/-)
Total	₹ 6,79,000/-	₹ 8,40,800/- (enhanced by ₹ 1,61,800/-)

In view of the above, the award dated 03.10.2015 is modified to the extent that the compensation of ₹ 6,79,000/- awarded by the Tribunal is enhanced to ₹ 8,40,800/-.

The appellant shall be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.

The appeal is partly allowed and disposed of accordingly.

September 29, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes