

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2402 of 2001 (O&M)
Date of Order:08.01.2018

Rajesh .Appellant

Versus

Vinay Kumar and others ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Bali, Advocate,
for the appellant.

Mr. R.C.Kapoor, Advocate,
for the Insurance Company.

ANIL KSHETARPAL, J (Oral)

Claimant is in appeal against the award passed by the learned Motor Accident Claims Tribunal (hereinafter referred to as the 'Tribunal'), seeking enhancement.

It is a unfortunate case where a young engineering graduate is suffering on account of motor accident which took place on 24.03.1997 leaving him crippled for his remaining life. As per Ex.P1, disability certificate, his disability was assessed at 100% with no chance of improvement. However, during the pendency of the present appeal, this Court directed that disability be once again got re-assessed from Postgraduate Institute of Medical Education and Research, Chandigarh. After examining the appellant, it has been reported as under:-

<i>Sr. No.</i>	<i>Disability</i>	<i>Affected part of Body</i>	<i>Diagnosis</i>	<i>Physical/mental disability(%)</i>
1	Locomotor disability		Lt. side Severe Hemiparesis	75%

<i>Sr. No.</i>	<i>Disability</i>	<i>Affected part of Body</i>	<i>Diagnosis</i>	<i>Physical/mental disability(%)</i>
2	Low Vision/Blindness	Rt. Eye 6/18 Lt. Eye 6/18 with less than 20 ⁰ visual fields	B/L Post Traumatic VIT he with optic Disc Pallor	75%
3	Hearing impairment			NIL
4	Mental retardation/illness	Brain	Post Traumatic Brain injury (Mild Neurocognitive decline)	45%
5	Others			NIL
6	Total			88%

From the reading of the aforesaid certificate, it is clear that the appellant is having locomotor disability to the extent of 75%, low vision/blindness to the extent of 75% and mental retardation to the extent of 45%. It is safe to conclude that the appellant is totally dependent upon someone for even his day to day activities. It has been found by learned Tribunal that the appellant completed his Bachelor of Engineering in January, 1997 and met with an accident on 24.03.1997. Learned Tribunal has assessed the future loss of earning at Rs.2000/- per month i.e. Rs.24,000/- per annum.

Learned counsel for the appellant has submitted that the appellant is an Engineering Graduate and the income assessed is on the lower side.

On the other hand, learned counsel for the respondent-Insurance Company has submitted that the accident took place in the year 1997 is to be assessed keeping in view the date of accident.

No doubt, the accident took place 20 years back, however, the assessment of income at Rs.2,000/- per month is wholly insufficient. A engineer graduate even in the year 1997 used to earn not less than Rs.5,000/- per month.

At the cost of repetition, it may be noticed that the appellant has been left crippled for life due to accident. He was a young man of 27 years of age when he met with an accident.

Keeping in view the aforesaid circumstances, the loss of future earning of the appellant is assessed at Rs.5,000/- per month i.e. Rs.60,000/- per annum. Learned Tribunal has applied a multiplier of 18, whereas as per Sarla Verma's case, the multiplier of 17 is applicable. Hence, the total loss of future earning comes to Rs.5000x12x17=1,020,000/-.

Learned Tribunal has awarded a sum of Rs.50,000/- towards pain and suffering, loss of amenities of life and Rs.50,000/- for transportation charges, medicines, hospitlisation and special diet and Rs.2,00,000/- on account of future cost of nursing care etc. These amounts are required to be revised. For pain and suffering, loss of amenities of life the compensation is assessed at Rs.1,00,000/-, for transportation charges, medicines, hospitlisation and special diet compensation is assessed at Rs.1,00,000/- and for transportation charges, medicines, hospitlisation and special diet is assessed at Rs.4,00,000/-. Thus, the total amount comes to Rs.16,80,000/-. Enhanced amount of Rs.8,88,000/-, which shall be payable along with interest @ 7.5% from the date of claim petition till its realisation.

<i>Heads</i>	<i>Compensation awarded by MACT</i>	<i>Compensation awarded by High Court</i>
Income taken	Rs.2000/- per month	Rs.5000/- per month
Disability	100%	100%
Annual Income	Rs.2000x12=24000/-	Rs.5000x12=60000/-
Multiplier	Rs.24000x18-4,32,000/-	Rs.60,000x17=10,20,000/-
Pain & suffering of loss of amenities	Rs.50,000/-	Rs.1,00,000/-
Transportation charges, medicines, hospitalization and special diet	Rs.50,000/-	Rs.1,00,000/-
Future cost of Nursing care	Rs.2,00,000/-	Rs.4,00,000/-

<i>Heads</i>	<i>Compensation awarded by MACT</i>	<i>Compensation awarded by High Court</i>
Total	--	Rs.16,20,000/-
Already paid	7,32,000/-	-7,32,000/-
Enhanced amount	--	Rs.8,88,000/-

Learned counsel for the appellant has drawn attention of the Court to the fact that although learned Tribunal had held the appellant to the compensation along with interest. However, in the relief clause, the interest was inadvertently omitted.

Taking into consideration these facts, the appellant-claimant is held entitled to interest @ 7.5% from the date of claim petition till realization even on the amount assessed by the learned Motor Accident Claims Tribunal.

The appeal is allowed.

January 08, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No