

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

Sr. No.444

FAO No.405 of 2002 (O&M)

DECIDED ON: October 26, 2018

JASWINDER SINGH

..APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Gopal Mittal, Advocate,
for the appellant.

Mr. Sushil Gautam, DAG, Haryana.

AJAY TEWARI, J. (ORAL)

This appeal has been filed for enhancement of compensation and for modifying the award dated 01.06.2001 passed by the Motor Accident Claims Tribunal, Jalandhar, granting compensation of Rs.2,45,000/- alongwith interest @ 9% per annum in favour of the appellant and against the respondents.

The brief facts of the case are that on 09.11.1998 at about 4.00 PM, appellant was sitting on the rear seat of Scooter of Surinder Singh bearing registration No.PB-32A-7418. The scooter was being driven by Surinder Singh at a normal speed. When they reached in the area of Village Bhajlian Mour and were going towards Garhshankar on the left side of the road, a bus bearing registration No.HR-26A-1196 driven by respondent

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No.3 – Sudhir Kumar in a rash and negligent manner, came at a high speed on the wrong side, hit the scooter. As a result of which, Surinder Singh died at the spot whereas, appellant-Jaswinder Singh was badly crushed. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of respondent No.3 and ordered the compensation as mentioned above.

Counsel for the appellant has argued that the Tribunal erred in giving lumpsum compensation. As per him the amputation of his right leg was below the knee and even though the permanent disability was shown as 70% the fact of the matter is that the deceased was an agriculturist and with the amputation of his right leg below the knee his functional disability is 100%.

Learned DAG has argued that once the appellant has been given money for a prosthetic, his functional disability cannot be taken to be more than 70%. I find merit in the argument of the learned DAG and affirm the finding that disability both permanent and functional is 70%.

Counsel for the appellant has further argued that the minimum wages for a skilled labourer at the relevant time were Rs.2322/-. Learned DAG has accepted this argument. In the circumstances, the monthly income is taken at Rs.2500/-. Since, the loss would be taken at 70% that is equal to Rs.1750/- of that amount. Since, he was 48 years old it is held that 25% has to be awarded towards future prospects in terms of judgment passed in ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

Counsel for the appellant has further argued that in view of judgment of the Supreme Court in the matter of ***Sarla Verma and others vs.***

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Delhi Transport Corporation and another, 2009 ACJ 1298, the multiplier of 13 had to be applied. I find this to be indeed so. Ordered accordingly.

Counsel for the appellant has further argued that against expenses on medical treatment, nutrition diet and attendant charges, a sum of Rs.60,000/- had been awarded, out of which, a sum of Rs.54,100/- approximately were proved the medical and medicine bills and therefore, an amount of Rs.5,900/- for nutrition diet and medical attendant for the period of 40 days that the appellant remained in hospital is highly inadequate. I find merit in this argument and award him a sum of Rs.1000/- per day for attendant charges, nutritious diet and transportation expenses.

Counsel for the appellant has further argued that under the head of pain and suffering, a sum of Rs.25,000/- is highly inadequate since the appellant had undergone three operations. I find this argument to be correct and award a sum of Rs.75,000/- more under the head of pain and suffering. The amount already paid would be deducted.

With these modifications, the instant appeal is allowed. Rest of the award shall remain unchanged.

Since, the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 26, 2018

Ankur

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No