

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

FAO No.744 of 2003

Date of Decision: 19.09.2018

Surinder Singh

..... Appellant

Versus

Ved Pal & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Subhash Godara, Advocate for
Mr. S.S.Dinarpur, Advocate for the Appellant.

None for Respondent Nos.1 and 2.

Mr. Suvir Dewan, Advocate for Respondent No.3.

SUDIP AHLUWALIA, J.

This appeal is directed against the impugned Award dated 16.10.2002 passed by the Ld. Motor Accidents Claims Tribunal, Yamunanagar at Jagadhri (for short 'Tribunal') in MACT Case No.94 of 2001 under Section 166 of the Motor Vehicles Act. The Appellant was the claimant in the said case and had sought compensation by alleging that he had been hit and was rendered permanently disabled by the Offending Truck No. HR-56-0364 belonging to Respondent No.2, which was being driven by Respondent No.1, and under coverage of valid Insurance Policy issued by Respondent No.3-United India Insurance Company. The Ld. Tribunal had awarded a total compensation of Rs.4,20,000/- to the Appellant, which according to

him is too meagre, and he therefore, filed the present Appeal claiming appropriate enhancement of the compensation amount.

2. There is no dispute regarding the material facts to the effect that the Appellant was actually injured in the accident caused by the Offending Truck, which in spite of considerable treatment nevertheless rendered him physically handicapped to the extent of 80% disability, which is also established from the Certificate to that effect issued by the Medical Board comprising of the Civil Surgeon as well as Medical Superintendent and Medical Officer of the M.I. General Hospital, Yamunanagar, which was led into evidence as Ex.P-1. The assessment of his income at the rate of Rs.2000/- per month or Rs.24000/- per annum as made by the Tribunal, however, would appear to be on the lower side. As can be seen from the Jamabandi (Ex.P-29) led in evidence, the Appellant was holding about 12 Acres of agricultural land jointly with his brother Mohinder Singh. His own share of such land which is otherwise fertile being situated in Yamunanagar, would therefore, come to six Acres. It is also established from his Driving License (Ex.P-35) that he used to drive a Tractor for tilling his fields as claimed by him, however, on account of amputation of his leg following the accident, he is unable to do now, and is therefore, required to utilize the services of a paid Driver, thereby reducing his net profitable income from his profession as an agriculturist. His contention of his having had additional income by way of selling milk would also appear to be very probable, since agriculturists owing so much of land are generally also known to rear milch cattle. Admittedly, no income tax is liable to be paid on

agricultural income on account of which, the Appellant's inability to lead any documentary proof to support his claim of having had income to the tune of Rs.15,000/- per month cannot be simply brushed away. However, there is always a probability of an Applicant claiming income substantially above what he actually earns with a view to claim excessive compensation. But even considering this possibility and the quantum and quality of the agricultural land with Tractor held by him at the relevant time, by no means, it can be inferred that his actual income could be even less than Rs.5000/- per month, which itself is 1/3rd of the amount he claims to have been earning. Consequently, his annual income at the relevant time is determined at Rs.60,000/-. By considering the extent of his physical disability (80%), his net loss of income is assessed at Rs.48,000/- per annum. There is no dispute regarding the Multiplier of 15 being applicable in his case considering his age (40 years) at the relevant time. Therefore, his actual admissible compensation for future loss of income and amenities of life due to permanent physical disability is determined as Rs.7,20,000/- instead of Rs.3,60,000/- as assessed by the Ld. Tribunal.

3. There is no doubt that the Appellant had undergone tremendous pain and suffering inasmuch as one of his leg had to be amputated above the knee level during the course of his prolonged treatment. Undisputedly, he had remained admitted in Local Hospital for 15 days, and thereafter in the PGI on different occasions for seven days and had to remain confined at home for rest for a substantial period of time. In such circumstances, the compensation awarded to him for pain and suffering, and for loss of income

during the period of his treatment as assessed at Rs.30,000/- by the Ld. Tribunal is found to be too meagre, and therefore, is determined at Rs.50,000/- in the given facts and circumstances. Likewise, his medical treatment related expenses and the ancillary expenses, which he was constrained to incur following the accident on account of special diet, medicines/medical equipment, transportation, his repeated journeys for the purpose of local places by reserving vehicles considering his medical condition, and need to employ an assistant to look after his very basic needs during the entire period of his treatment, his admissible compensation on these counts is enhanced to Rs.1,20,000/- from Rs.30,000/- as determined by the Ld. Tribunal.

4. Consequently, the total admissible compensation to which the Appellant is entitled, is held to be Rs.8,90,000/- instead of Rs.4,20,000/- as determined by the Ld. Tribunal.

5. The Appeal is thus, disposed off with the above observations.

6. The compensation amount thus determined by this Court shall be paid by the Respondents after making adjustments for any amount(s) already paid, and the interest liability of the Respondents shall be subject to the same terms & conditions as determined by the Ld. Tribunal.

(SUDIP AHLUWALIA)
JUDGE

19.09.2018
AS

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|--------------------------------|--------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |