

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

**FAO No. 10265 of 2014
Date of decision:- 02.02.2018**

Abhishek Kumar Suman

...Appellant

Versus

Pappy and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Aditya Yadav, Advocate
for the appellant

Mr. Sandeep Suri, Advocate
for respondent No. 3

RITU BAHRI J.

C.M. No. 28229-CII-2015

For the reasons mentioned in the application, delay of 300 days in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

F.A.O No. 10265-2014

1. The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 28.09.2013 passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') to the tune of Rs.17,44,605/-.

FACTS NOT IN DISPUTE

2. On 11.06.2010, appellant was driving his motorcycle bearing registration No. DL-7S/AY-2468. When he reached near Gujarat Hotel Nikhri on National Highway No. 8, a tralla bearing No. HR-69A-0169 was coming behind the motorcycle of the appellant. The driver of the offending tralla while overtaking the motorcycle of the appellant struck the tralla from

the side and due to this accident, the appellant fell down and the appellant came under the tyres of the offending vehicle. Both the legs of the appellant damaged badly and had to be amputated.

COMPENSATION ASSESSED BY MACT

3. The learned Tribunal granted Rs.14,34,605/- on account of medical treatment, Rs.1,50,000/- on account of special diet, pain and suffering, transportation, attendant etc and 1,60,000/- on account of disability of 80%. In all, the total compensation of Rs.17,44,605/- was awarded to the appellant.

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment of Hon'ble the Supreme Court of India in a case of Rajan vs. Soly Sebastian and others, **2015 (4) RAJ 311** wherein a claimant suffered fracture of ribs and partial loss of vision. The victim suffered 60% bodily injury but suffered 100% permanent disability with regard to earning capacity. The compensation assessed taking into consideration 100% loss of earning capacity

5. Learned counsel for the appellant has further referred to judgment of Hon'ble the Supreme Court of India in a case of **V. Mekala vs. M. Malathi and anr, 2014(11) SCC 178** wherein in a motor accident, the victim was a student and bones of her both legs fractured. Hon'ble the Supreme Court assessed her notional monthly income at Rs.10,000/- and awarded her 50% future prospects. She was awarded Rs.3 lacs under the head Loss of enjoyment of life and marriage prospects. She was awarded Rs. 2 lacs under the head pain and suffering and Rs. 2 lacs under the head loss of amenity and attendant charges.

6. Reference has further been made to a judgment of this Court in a case of ***Priyanka Bhutani vs. Sukh Pal Singh and others, 2011(2) RCR Civil 586*** wherein a girl child suffered brain injuries on her head. The Tribunal awarded Rs.6,32,000 but this Court enhanced the compensation amount to Rs.44,65,000/-. Her income had been assessed at Rs.10000 per month and she was awarded Rs.21,60,000/- under the head loss of earning capacity. She was awarded Rs.5,00,000/- towards loss of amenities. Rs.1 lac was awarded towards loss of prospect of marriage and Rs.1 lac was awarded towards pain and suffering.

7. Reference has been made judgment of Hon'ble the Supreme Court of India in a case of ***Dinesh Singh vs. Bajaj Allianz General Insurance Co. Ltd, 2014 (3) RCR Civil 123*** wherein Hon'ble the Supreme Court was dealing with a case of 24 year old victim, who met a motor accident. His one leg amputated. He suffered 60% permanent disability. He was awarded Rs.1,20,000/- towards pain and agony, Rs.3,10,000/- towards medical expenditure. Rs.3,08,160 towards loss of income, Rs.15,72,000/- towards loss of future income, Rs.3,50,000/- towards loss of happiness and loss of amenities, Rs.1 lacs towards loss of marriage prospects, Rs.5,50,000/- towards future medical expenses.

8. On the other hand, learned counsel for the Insurance Company has opposed the prayer made by the appellant for enhancement of compensation.

9. I have heard learned counsel for the appellant and perused the record.

RE-ASSESSED COMPENSATION

10. The fact that the appellant suffered injuries in the accident is

not in dispute. It is also not in dispute that the appellant was a student of BBA 2nd year and was 21 years old at the time of accident. The appellant had suffered 80% permanent disability, as admitted by the parties.

11. Reference can be made to the judgment of Hon'ble the Supreme Court of India in the case of *Syed Sadiq etc. vs. Divisional Manager, United India Ins. Co. 2014(1) RCR (Civil) 765*, where the accident victim was aged 24 years and was vegetable vendor. It was held that a vegetable vendor is reasonably capable of earning Rs.6500/- per month with 50% increment in the future prospect of income. Multiplier of 18 was applied for calculating the amount of compensation

12. In the facts of the present case, the fact which is not dispute that both the legs of the appellant were amputate, resulting in 80% disability.

13. Applying the ratio of the above mentioned judgments, the compensation is re-assessed as under:-

<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
Salary (Income)	Rs.10000 per month
Annual Salary	Rs.10000X12=1,20,000/-
Future Prospect 40%	Rs.120000 + Rs.48000 = Rs.1,68,000/-
Loss on account of 80% disability (taken to be 100%)	1,68,000
Multiplier of 18 (age 21 years)	168000 X18=30,24,000/-
1/3rd deducted as personal expenses of the injured=	3024000-1008000=Rs.20,16,000/-
Medical Expenses	Rs.14,34,605
Special Diet, Transportation Charges, Attendant Charges, Pain and suffering etc	Rs.1,50,000/-
Total compensation awarded:-	Rs.36,00,605/-
Enhanced amount of compensation	36,00,605-17,44,605=Rs.18,56,000/-

14. The enhanced amount of compensation of Rs.18,56,000/- shall be payable within a period of forty five days from the date of receipt of

certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of *Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539*. Remaining conditions of disbursal of amount shall remain unaltered.

15. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

February 02, 2018

G Arora

(*RITU BAHRI*)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>