

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

FAO No. 2066 of 2016 (O&M)

Date of decision : November 21, 2018

Venkatesh Parumal

.....Appellant

Versus

Randeep Batta and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Mr. M.B. Jain, Advocate
for respondent No. 2.

LISA GILL, J.

This appeal has been preferred by the appellant – Venkatesh Parumal for enhancement of compensation awarded to him vide award dated 08.10.2015 passed by the learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by him in the motor vehicle accident, which took place on 14.06.2013.

Brief facts necessary for adjudication of the case are that the appellant was involved in a motor vehicle accident on 14.06.2013 when he was going from Ratnam Restaurant, Sector 5, Panchkula to Sector 9, Panchkula on his motorcycle bearing registration No. HR-03-H-1010 for delivering some eatables. When he reached the light point of Sectors 8/9, Panchkula, offending car bearing registration No. HR-03P-1387 hit the motorcycle of the claimant. As a result thereof, he fell on the road and suffered multiple grievous injuries. The appellant was rushed to General

Hospital, Sector 6, Panchkula, from where he was referred to PGI, Chandigarh. He suffered fracture of knee and was operated upon with nail and screws at PGI, Chandigarh where he remained admitted for 3-4 days. His disability was assessed as 10% as reflected in the disability certificate (Ex.P1). Claim petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by him.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to rash and negligent driving of car bearing registration No. HR-03P-1387 driven by respondent No. 1. This finding of the learned Tribunal has attained finality. The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 10% functional disability. The learned Tribunal awarded a total compensation of ₹70,000/- as under:-

Loss of income due to disability during treatment : ₹40,000/-

Loss of amenities, transportation charges, extra nourishment,
loss of account of pain and suffering, special diet etc.

: ₹10,000/-

Medical expenses : ₹20,000/-

Present appeal has been filed seeking enhancement of the compensation awarded.

Learned counsel for the appellant refers to the statement of PW2 – Dr. K.K. Bansal, Senior Medical Officer who proved the disability certificate (Ex. P1) as well as his treatment at PGI. Appellant is stated to have suffered 20% disability qua the lower limb. Learned counsel appellant relies on the judgment of the Hon'ble Supreme Court in **Sayed Sadiq etc. versus Divisional Manager, United India Insurance Company 2014 (1)**

R.C.R. (Civil) 765 to submit that it is the functional disability of the injured claimant which has to be assessed and compensation afforded accordingly. It is further submitted that meagre compensation has been afforded for loss of amenities, on account of pain and suffering, special diet, medical expenses etc. He prays for enhancement of the same.

Learned counsel for the respondent - insurance company while refuting the arguments raised submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed and the impugned award dated 08.10.2015 be upheld.

I have heard learned counsel for the parties and have gone through the record produced in Court today.

There is no dispute regarding the appellant having suffered injuries as mentioned in the motor vehicle accident caused by the rash and negligent driving of the offending car vehicle by respondent No. 1 on 14.06.2013. Liability of the insurance company is also not denied.

It is not denied that the claimant was working as a delivery boy at Ratnam Restaurant at the time of the accident. Keeping in view the injuries and the disability suffered, functional disability of the appellant cannot be less than 10% and is so assessed. It has been held by the Hon'ble Supreme Court in **Sayed Sadiq's** case (supra), that the Court should be sensitive about the functional disability suffered by the claimant and award compensation accordingly. There is no evidence on record to show the wages received by the claimants. However, it cannot be less than minimum wages of an unskilled labourer in the State of Haryana at the time of the accident i.e. ₹5,341/- per month. Accordingly, income of the injured is

assessed as ₹5500/- per month. The claimant's functional disability can be safely assessed as 10%. He is entitled to 40% increment on account of loss of future prospects in view of her age i.e. 22 years at the time of accident. A multiplier of 18 has to be applied.

As per the guidelines laid down by the Hon'ble Supreme Court in Sayed Sadiq's case (supra), the appellant would be entitled to loss of future income of ₹1,66,320 $[(₹5500 \times 10/100) + (10/100 \times 40/100 \times ₹5500) \times 12 \times 18]$ instead of ₹40,000/- as awarded by the learned Tribunal. ₹20,000/- awarded by the learned Tribunal on account of hospitalisation and treatment, as per the bills produced, is maintained. A consolidated sum of ₹10,000/- has been wrongly assessed by the learned Tribunal for loss of amenities, pain and suffering, special diet etc. Sum of ₹50,000/- is awarded on account of loss of amenities and marriage prospects and ₹20,000/- on account of pain and suffering. The appellant shall also be entitled to a sum of ₹5,000/- for special diet, ₹5,000 for attendant charges, ₹30,000/- on account of future medical expenses and physiotherapy.

The appellant is, thus, entitled to compensation detailed as under:-

Loss of future income	₹1,66,320/-
Pain and suffering	₹20,000/-
Loss of amenities and marriage prospects	₹50,000/-
Special diet	₹5,000/-
Medical expenses	₹20,000/-
Attendant charges	₹5,000/-
Future medical expenses and physiotherapy	₹30,000/-
Total	₹2,96,320/-

Amount of compensation already awarded to the appellant shall stand deducted from the amount calculated as above. Appellant shall be

entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realisation.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

November 21, 2018
rts

(Lisa Gill)
Judge

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