

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5488 of 2013 (O&M)
Date of decision:17.10.2018.

Umed Singh

...Appellant

Versus

Shyam Singh and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate for the appellant.

None for respondent No.1.

Mr. Rajesh Bansal, Advocate for respondent No.2/Insurance
Company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to him by the learned Motor Accident Claims Tribunal, Narnaul ('Tribunal' for short) vide award dated 02.07.2013 on account of injuries and disability suffered by him in a motor vehicle accident on 31.03.2011.

Brief facts necessary for adjudication of the case are that a 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. The appellant was involved in a motor vehicle accident on 31.03.2011 when he was going from Village Bhojawas toward Kanina on his motorcycle bearing No.HR-34B-2785. When the appellant reached Ateli-Kanina road near Village Bhojawas, the offending motor-cycle bearing registration No.HR-35F-4259 being driven by respondent No.1 in a rash and negligent manner came from the front and struck against his motorcycle. On

account of the said accident, appellant sustained grievous injuries. Driver of the offending motor-cycle/respondent No.1 fled from the spot. FIR was registered at Police Station Kanina against respondent No.1 on 01.04.2011. It was pleaded that the claimant at the time of accident was 28 years old and was working as Circle Incharge in KLG Company Ltd., drawing a salary of Rs.20,000/- per month. Compensation was, thus, prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

The learned Tribunal concluded the age of the appellant to be 32 years at the time of accident and his income as Rs.4500/- per month. The learned Tribunal further assessed the permanent functional disability of the appellant as 50%. Therefore, the total income of the appellant was assessed at Rs.8,64,000/- (4500x12x16). Learned Tribunal, after taking into consideration 50% permanent functional disability of the appellant, assessed the loss of future income as Rs.4,32,000/-. The total amount of compensation awarded to the appellant is tabulated as under: -

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Rupee</i>
1.	Medical expenses	Rs.50,444/-
2.	Pain and suffering	Rs.50,000/-
3.	Special diet	Rs.30,000/-
4.	Transportation	Rs.25,000/-
5.	Loss of future income	Rs.4,32,000/-
6.	Loss of amenities	Rs.3,00,000/-

7.	Loss of income	Rs.10,000/-
Grand Total		8,97,444

A sum of Rs.8,97,444/- was awarded as compensation to the claimant along with interest @ 6% per annum from the date of filing of claim petition till realisation. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that functional disability of the appellant should be assessed as 100% as he lost vision of both his eyes. Learned Tribunal has erred in assessing the functional disability of the appellant as 50%. The appellant lost his job due to the disability suffered. Moreover, meagre compensation has been awarded on account of pain and sufferings etc. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for the Insurance Company prays for upholding the compensation being justified in the facts and circumstances of the case.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute that due to the accident in question, the appellant suffered 100% disability qua his vision. PW6 Dr. Sanjay Bishnoi proved the disability certificate Ex.PW6/A. Learned counsel for the Insurance Company is unable to deny that the claimant/appellant was visually disabled from both eyes due to the accident in question. However, there is nothing on record to indicate that the appellant was earning a sum of Rs.20,000/- per month while working as Circle Incharge with KLG Company Ltd. Gurgaon. Learned counsel for the appellant is unable to point out any evidence to indicate that appellant/claimant was earning an amount higher than the

income as assessed by the learned Tribunal i.e. Rs.4500/- per month. Apart from visual impairment, the appellant, it is fairly stated does not suffer any other physical disability caused due to the injuries suffered in the accident. In the abovesaid facts and circumstances, it is considered appropriate to assess the functional disability of the appellant to be 75%. Loss of income is thus assessed as $4500 \times 75\% = \text{Rs.}3375/-$ per month. Compensation to the appellant is required to be reworked in terms of the guidelines laid down by the Hon'ble Supreme Court in Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765.

Increase in income on account of future prospects at the rate of 40%, takes the income to $[(3375 + (3375 \times 40\%)) = \text{Rs.}4725/-$ per month i.e., Rs.56,700/- per annum. Age of the appellant was 32 years at the relevant time, therefore, multiplier of 16 is to be applied. Loss of earnings is, thus, assessed as Rs.9,07,200/- $[9,07,200 \times 16]$.

Medical expenses of Rs.50,444/- as awarded by the learned Tribunal on the basis of evidence produced on record, are maintained. A sum of Rs.1,00,000/- instead of Rs.50,000/- is afforded on account of pain and sufferings. Compensation awarded towards special diet, transportation is maintained. Rs.1,50,000/- is afforded on account of loss of amenities instead of Rs.3,00,000/-. A sum of Rs.1,00,000/- is awarded towards attendant charges. Loss of income of Rs.10,000/- is also maintained.

Thus, the claimant is entitled to compensation as detailed hereunder: -

Sr.No.	Heads of Claim	
1.	Medical expenses	Rs.50,444/-
2.	Loss of amenities	Rs.1,50,000/-
3.	Attendant charges	Rs.1,00,000/-

4.	Special diet	Rs.30,000/-
5.	Transportation	Rs.25,000/-
6.	Pain and suffering	Rs.1,00,000/-
7.	Loss of income	Rs.10,000/-
8.	Loss of future income	Rs.9,07,200/-
Grand Total		13,72,644/-

The amount of compensation already awarded to the appellant, needless to say, 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 entire compensation amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 02.07.2013, present appeal is disposed of.

(LISA GILL)
JUDGE

October 17, 2018
Ishwar

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