

214

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

FAO No.4769 of 2015

Date of Decision: 03.07.2018

Telu Ram

....Appellant

Vs

Hans Raj and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. D.L. Gulati, Advocate for
Mr. K.S. Dhanora, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.3/Insurance Company.

RAJ MOHAN SINGH, J. (Oral)

[1]. Claimant has preferred this appeal against inadequacy of amount of compensation awarded vide award dated 20.11.2014 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal').

[2]. Brief facts are that the appellant suffered permanent disability to the tune of 24% towards a particular limb in a motor vehicular accident which took place on 26.04.2011. Appellant/claimant was driving his canter full of wheat crop while going to sell the same in grain market.

[3]. The liability of the Insurance Company has not been disputed by learned counsel appearing on its behalf.

[4]. The Tribunal after assessing the material on record, awarded the compensation in the following manner:-

“1)	<i>For loss of income & Permanent disability</i>	<i>Rs.60,000.00</i>
2)	<i>For medical expenses</i>	<i>Rs.47,538.00</i>
3)	<i>For Special diet</i>	<i>Rs.5000.00</i>
4)	<i>For transportation charges</i>	<i>Rs.5000.00</i>
5)	<i>For pain and suffering</i>	<i>Rs.25,000.00</i>
<i>Total</i>		<i>Rs.1,42,538.00”</i>

[5]. Learned counsel for the appellant submitted that even if the functional disability due to permanent disability of the appellant is slashed down to half of the permanent disability of particular limb, the permanent disability to the extent of 12% has to be computed for determining two different heads i.e. amount of Rs.2,000/- per percentage for permanent disability as well as the amount for loss of income on account of permanent disability.

[6]. I have considered the submissions made by learned counsel for the parties.

[7]. In view of law laid down in **Govind Yadav vs. New India Insurance Company Limited, 2011 (4) RCR (Civil) 817;**

K. Suresh vs. New India Assurance Company Limited and another, 2013(1) RCR (Civil) 312; S. Manickam vs. Metropolitan Transport Corporation Ltd, 2013(3) RCR (Civil) 696; G. Ravindranath @ R. Chowdary vs. E. Srinivas and another, 2013(3) RCR (Civil) 934; Rekha Jain vs. National Insurance Company Ltd., 2013(3) RCR (Civil) 996; Neerupam Mohan Mathur vs. New India Assurance Company, 2013(4) Law Herald (SC) 3422 and Yadava Kumar vs The Divisional Manager, National Insurance Company Ltd. and another, 2010(4) RCR (Civil) 155, the compensation

has to be awarded under both the heads i.e. an amount of Rs.2,000/- per percentage for permanent disability and amount for loss of income on account of permanent disability. A distinction has to be drawn between the damages and the compensation. Damages are given for injuries which the injured suffered, whereas compensation is to be paid for atonement of the injury caused and to put back the injured as far as possible in the same manner as if, injury has not been received. The Court should be liberal in deciding quantum of compensation to be paid to the victim towards future loss of income on account of permanent disability.

[8]. In view of aforecited precedents, the compensation towards the heading of permanent disability has to be assessed

independently. The claimant would be entitled to Rs.2000/- per percentage in respect of permanent disability in the present circumstances, wherein he has suffered permanent disability towards a particular limb of his body. Even if the functional disability to the tune of 12% is considered in relation to whole body, the loss of income per percentage would come out to be Rs.24,000/- (2000 x 12).

[9]. Secondly, loss of future income on account of permanent disability has to be separately assessed by multiplier method. The appellant/injured can be treated to be a skilled labourer. The accident took place in the year 2011. As per minimum wages prevailing in the said year, income of the appellant can be taken to be Rs.5000/- per month. The loss of future income due to permanent disability to the extent of 12% would come to be Rs.600/- per month. In view of age of the claimant, multiplier of 17 is to be applied. Therefore, loss of future income on account of permanent disability to the tune of 12% would come out to be Rs.1,22,400/- (600 x 12 x 17). In this way, the total amount under the permanent disability and loss of future income on account of permanent disability would come to be Rs.1,46,400/- (24,000 + 1,22,400).

[10]. So far as an amount of Rs.47,538/- towards medical expenses is concerned, this Court is of the opinion that the

award is based on material produced by the claimant. The finding qua the aforesaid head is affirmed.

[11]. The Tribunal has granted an amount of Rs.5,000/- towards special diet which needs to be enhanced to Rs.20,000/- and the amount of Rs.5000/- awarded towards transportation charges is enhanced to Rs.10,000/- in view of facts and circumstances. An amount of Rs.50,000/- is assessed towards pain and suffering instead of Rs.25,000/- as assessed by the Tribunal.

[12]. In view of aforesaid re-assessment, a comparative chart can be prepared in the following manner:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in Appeal	Difference
1	Permanent disability & Loss of future income on account of 12%permanent disability	Rs.60,000/-	Rs.1,46,400/- (24,000 + 1,22,400)	Rs.86,400/-
2	Medical expenses	Rs.47,538/-	Rs.47,538/-	Nil
3	Special Diet	Rs.5000/-	Rs.20,000/-	Rs.15,000/-
4	Transportation charges	Rs.5000/-	Rs.10,000/-	Rs.5,000/-
5	Pain & suffering	Rs.25,000/-	Rs.50,000/-	Rs.25,000/-
Total compensation		Rs.1,42,538/-	Rs.2,73,938/-	Rs.1,31,400/-

[13]. In this way the total amount of enhanced compensation

would come out to be Rs.1,31,400/-. The same would carry the same interest as awarded by the Tribunal from the date of filing of the claim petition till final realization of the same.

[14]. In view of aforesaid, the award is modified. Appeal stands disposed of.

July 03, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No