

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

FAO-6631-2015 (O&M)
Date of Decision: 01.10.2018

Simranjit Singh

-- Appellant

Versus

Jiwanjot Singh and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr.Atul Gaur, Advocate for
Mr. Samir Rathaur, Advocate
for the appellant.

Mr.B.S.Bali, Advocate
for respondent No.1.

Mr.M.K.Garg, Advocate
for respondent No.3.

TEJINDER SINGH DHINDSA.J.

Simranjit Singh, the injured/victim is in appeal seeking enhancement of compensation in respect of injuries suffered by him in a motor vehicle accident dated 25.04.2013 due to the rash and negligent driving of a jeep bearing registration No.PB-12-T-1111.

The Motor Accident Claims Tribunal, Fatehgarh Sahib vide award dated 27.05.2015 has held the claimant/appellant entitled to a compensation amount of Rs.1,30,355/-. The compensation amount has been computed by the Tribunal as follows:-

Injury case		
Age	20 years	
S.No.	Head of claim	Amount (Rs.)
1	Loss of income	Rs.10,000/-
2	Medical expenses	Rs.16,055/-
3	Attendant charges	--
4	Special Diet	Rs.10,000/-
5	Future Medical expenses	-
6	Transport	Rs.20,300/-
7	Pain and Suffering	Rs.10,000/-
8	Loss of amenity for 10% disability qua whole body (5% qua limb), as assessed by the doctor	Rs.10,000/-
9	Loss of earning capacity	Rs.54,000/-
	Total	Rs.1,30,355/-

Counsel for the appellant has contended that the compensation amount awarded by the Tribunal is grossly inadequate against the backdrop of the injuries suffered as also the disability element which has been duly proved on record. It is urged that the compensation awarded under the different heads noticed hereinabove would need to be enhanced suitably.

Counsel for the contesting Insurance Company on the contrary has supported the award passed by the Tribunal.

At the very outset, it may be observed that the Tribunal had recorded a specific finding that the accident had taken place due to the rash and negligent driving of the offending/insured vehicle and which had struck against the motorcycle being driven by the claimant/appellant and on account of which injuries had been sustained. Insurance Company has not challenged such findings of the Tribunal and as such,

this aspect has attained finality.

Furthermore, the liability to pay the compensation amount was held to be joint and several and as such, it is the respondent-Insurance Company which would be the contesting party herein.

Having heard counsel for the parties at length, this Court is of the considered view that a case for enhancement of compensation in the facts of the present case is made out.

It is by now well settled that in awarding compensation, the multiplier method is logically sound and legally well established. The Motor Accident Claims Tribunal was obligated to assess the fact of the permanent disability on the earning capacity of the injured/claimant and after assessing the loss of earning capacity in terms of percentage of the income, it ought to be quantified in terms of money to arrive at the future loss of earning by applying the standard multiplier method employed to determine loss of dependency.

Adverting to the facts of the present case, the claim petition had been filed under Section 166 of the Motor Vehicles Act seeking compensation to the tune of Rs.15 lakhs. Claimant had asserted that he was 20 years of age as on the date of the accident, was able bodied and was working as a Lab Technician. He had claimed that he was earning Rs.15,000/- per month i.e. Rs.5,000/- on account of being engaged as a Lab Technician with Ram Diagnostic Laboratory, Opposite Civil Hospital, Fatehgarh Sahib and Rs.10,000/- while doing part time work of collecting samples. The Tribunal has accepted the income of Rs.5,000/- per month based on the testimony of CW1 Sunil Sethi. As regards the additional income of Rs.10,000/- that was claimed, the

Tribunal has discarded the same by observing that no cogent evidence had been led in support thereof. This Court finds that monthly income of Rs.5,000/- assessed by the Tribunal is on the lower side. The accident admittedly had occurred on 25.04.2013. The appellant was working as a Lab Technician. Counsel for the parties do not controvert that the minimum wages admissible to a skilled worker at the relevant point of time were Rs.6500/- per month. Accordingly, the income of the claimant/appellant is assessed as Rs.6500/-per month.

The claimant/appellant had examined CW2, Dr. Sunil Kumar, Medical Officer, General Hospital, Ambala Cantt. and who deposed that on 17.07.2013 while he was a member of the Handicap Board, Civil Hospital, Ambala, he had physically examined the claimant and duly proved the disability certificate Ex.C2 reflecting a permanent disability of 10%-12% qua the right foot of the claimant. It may be noticed that on account of injuries suffered by the appellant in the accident, he had to undergo amputation of the big toe of his right foot. The Tribunal has taken the disability element to be 5% as regards the entire body while examining the issue for awarding compensation towards loss of earning capacity. The same would not call for any interference. However, the Tribunal has overlooked the aspect of granting an addition in income towards future prospects. By applying the parameters laid down by the Apex Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**, this Court would award 40% addition in income towards future prospects. A multiplier of 18 would be applied keeping in view the age of the appellant i.e. 20 years as on the date of accident. In this manner, the compensation

payable to the appellant under the head of loss of future earnings on account of permanent disability would be computed as follows.

Sr. No.	Heads	Amount
1	Notional income per month	Rs.6500/-
2	40% increased towards future prospects	Rs.6500+2600=9100/-
3	Annual income	Rs.1,09,200/-
4	Income after applying the multiplier of 18	Rs.1,09,200x18=19,65,600/-
5	5% of the total income towards loss of future earnings.	Rs.98,280/-

This Court would further grant to the appellant a sum of Rs.15,000/- towards loss of income for the period he remained under treatment and for recuperation thereafter.

The Tribunal has granted a sum of Rs.16,055/- towards medical expenses/treatment on the strength of bills Ex.C7 to Ex.C14, Ex.17 to Ex.C23, Ex.C30 to Ex.C38, which had been produced on record. It is well accepted that while claiming compensation, the injured/victim may not be in a position to retain the entire bills towards medical treatment/expenses. It is a case where the appellant was admitted in Sood Plastic Surgery and Cosmetology Hospital, Patiala from 25.04.2013 to 27.04.2013 where the big toe of his right foot was amputated. Thereafter, he was again admitted to the same very hospital from 12.05.2013 to 13.05.2013 for skin grafting. Under such circumstances, the compensation amount awarded towards medical expenses/treatment is enhanced from Rs.16,055/- to Rs.30,000/-.

The Tribunal has awarded a meager sum of Rs.10,000/- under the head of pain and sufferings. Keeping in view the fact that the

claimant/appellant has undergone amputation of big toe of the right foot and underwent two spells of hospitalisation, such head would now stand enhanced to Rs.50,000/-.

An amount of compensation of Rs.20,300/- under the head of transportation charges, Rs.10,000/- towards loss of amenities and Rs.10,000/- towards special diet awarded by the Tribunal shall remain intact.

In view of the above, the amount of compensation payable to the appellant is reassessed and computed as follows:-

Sr. No.	Head	Amount
1	Loss of future earnings on account of permanent disability	Rs.98,280/-
2	Medical bills/treatment charges	Rs.30,000/-
3	Special diet as awarded by the Tribunal	Rs.10,000/-
4	Loss of earning capacity	Rs.15,000/-
5	Loss of amenities as awarded by the Tribunal	Rs.10,000/-
6	Transportation	Rs.20,300/-
7	Pain and suffering	Rs.50,000/-
	Total	Rs.2,33,580/-

The enhanced compensation amount be disbursed to the appellant along with interest @ 6% per annum from the date of filing of the instant appeal till actual realisation.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)

JUDGE

01.10.2018

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- i) Whether speaking/reasoned? Yes/No
- ii) Whether reportable? Yes/No