

102.

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

FAO-8364-2014 (O&M)

Date of decision:09.03.2018.

AMRIK SINGH

... Appellant

Versus

HAKAM CHAND THAKUR & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Ekta Thakur, Advocate,
for the appellant.

Mr. Sandeep Kumar, Advocate, for
Mr. Neeraj Sharma, Advocate,
for respondents No.1 and 2.

Mr.Lalit Garg, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

Appellant-claimant has filed present appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (for short, "the Tribunal") vide award dated 01.08.2014.

On a claim petition filed by the claimant under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation on account of injuries suffered by him in a motor vehicular accident which took place on 10.11.2012, the Tribunal has awarded a total compensation of ₹1,46,910/- along with interest @ 7.5% per annum.

As per the claim petition, on 10.11.2012 when the appellant-claimant was going from Village Lalru to Bhoor (Nalagarh) while driving his motorcycle bearing registration No.PB-65-N-1433 on his correct left side

the offending vehicle i.e. Car bearing registration No.PB-16-A-1414 came from the opposite side at a very high speed and in negligent manner. The car struck against the motorcycle. As a result thereof, the appellant fell down on the road along with the motorcycle. He suffered multiple injuries on vital organs of his body including fracture on his both the legs, femur and patella. For this accident, an FIR was registered with Police Station Nalagarh, District Solan (HP). After the accident, the injured/claimant was shifted to PGI, Chandigarh where he was admitted on 10.11.2012 and was discharged on 13.11.2012.

The Tribunal decided the issue establishing the fact that the accident took place due to rash and negligent driving of the driver of the offending vehicle. On the crucial issue of quantum of compensation, the claimant has pleaded that he was earning ₹10,000/- per month and was working as a Carpenter and he was in great demand. However, in his cross-examination, it was found that he was working with Avtar Singh, the Contractor and resident of Khuda Lahora. Thus, taking into consideration the fact that he was working with a Contractor, the Tribunal has assessed the income of the injured as ₹5,000/- per month and awarded the aforesaid compensation.

Not satisfied with the adequacy of compensation, the appellant has filed the present appeal for enhancement.

Learned counsel for the appellant has argued that after the accident, the appellant-claimant was shifted to PGI, Chandigarh where he remained admitted for three days i.e. w.e.f. 10.11.2012 to 13.11.2012. She has further argued that considering the nature of injuries suffered by the claimant, he continued to get treatment and after being discharged from PGI,

Chandigarh, he had taken treatment from C Lall Hospital, (Orthopaedics & Maternity), Ambala Cantt. from 25.03.2013 to 02.04.2013 i.e. 8 days. He was operated on two different occasions. He has spent sufficient amount on his treatment/medicines and follow-up which includes transportation, special diet and attendant charges as well. Therefore, the amount granted by the Tribunal needs substantial increase. The Tribunal was required to apply multiplier method for computing the compensation by taking into consideration the permanent disability suffered by the appellant.

On the other hand, learned counsel for respondents has argued that since the injured was working with a Contractor, the Tribunal has already assessed the income adequately in consonance with the prevailing notification prescribing minimum wages for a skilled/unskilled worker. Since the injured was working with a Contractor, his income was not more than the wages prevalent at the relevant time and notified by the State of Punjab. He states that at the relevant time, the monthly income of the daily wager was ₹4,500/-.

I have heard learned counsel for the parties.

The accident and liability are not in dispute, but what is in dispute is the quantum of compensation awarded by the Tribunal. In the present case, the appellant has suffered 41% permanent disability in the accident and his both legs were fractured. He remained admitted in PGI, Chandigarh and thereafter, in Ambala Hospital for the period referred above. Though it is the pleaded case of the appellant that he was working as a Carpenter independently, but as no evidence came on record to this effect, the Tribunal has assessed his income as ₹5,000/- per month. The argument

41% permanent functional disability of the appellant, the Tribunal was required to apply the multiplier method for the purpose of computation of compensation, carries weight. This Court has a glance of Ex.P17 i.e. Disability Certificate issued by the PGIMER Chandigarh wherein the appellant was diagnosed as a case of Post Traumatic Knee Stiffness. His permanent physical impairment/disability has been evaluated as per the guidelines for the disabilities i.e. 41% permanent physical disability and the condition is not likely to improve. Thus, it is not in dispute that the claimant has suffered 41% permanent functional disability. The Hon'ble Apex Court in *Govind Yadav Versus the New India Insurance Company Limited- 2011(4) R.C.R. (Civil) 817* has awarded compensation by considering the loss of earning on account of 70% permanent disability and assessed the income of the injured as ₹3,000/- per month. Therefore, having regard to said judgment i.e. *Govind Yadav's case* (supra), this Court finds that the award passed by the Tribunal needs modification. As the injured was 38 years of age at the time of accident, multiplier of 15 is required to be applied for assessing the amount of compensation. Having regard to the injuries suffered by the appellant, this Court finds that the claimant is further entitled for enhancement of ₹5,000/- each towards special diet and transportation. Accordingly, the compensation to which the appellant-claimant is entitled, is re-assessed in the following manner:-

Heads		Calculation
Monthly Income		₹5,000
Annual income (monthly income x 12)		₹60,000
Disability (%)	41%	
Annual loss of income		₹24,600
Multiplier	15	
Total loss of future income		₹3,69,000

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Medical expenses		₹11,910
Pain & sufferings		₹15,000
Special diet		₹10,000
Transportation		₹10,000
Attendant		₹10,000
Loss of income		₹20,000
Total amount of compensation		₹4,45,910
Amount already awarded		₹1,46,910
Enhancement		₹2,99,000

With the aforesaid modification, present appeal is disposed of and the compensation of ₹2,99,000/- is enhanced which shall be payable to the appellant-claimant along with interest @ 7.5% per annum from the date of filing of claim petition till its realization.

(HARI PAL VERMA)
JUDGE

09.03.2018
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No