

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

FAO No. 4026 of 2012 (O&M)

Date of decision : February 05, 2019

Gurinder Singh

.....Appellant

Versus

Sohan Lal and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Alankar Narula, Advocate for
Mr. Prateek Gupta, Advocate
for the appellant.

None for respondents No. 1 and 2.

Mr. Gopal Mittal, Advocate
for respondent No. 3.

LISA GILL, J.

This appeal has been preferred by the appellant – Gurinder Singh for enhancement of compensation awarded to him vide award dated 07.12.2011 passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by him in the motor vehicle accident, which took place on 18.12.2008.

Brief facts necessary for adjudication of the case are that the appellant was involved in a motor vehicle accident on 18.12.2008. He alongwith his father Amarjit Singh were going to Gurudwara Fatehgarh Sahib on their separate bicycles. It was averred that at about 1.30 p.m., offending vehicle Truck bearing registration No. HP-12-C-9625 driven by respondent No. 1 in a rash and negligent manner came from behind and struck against the bicycle of the appellant. As a result thereof, the appellant

fell down and front tyre of truck ran over the left leg of the appellant. He sustained grievous injuries and was rushed to Civil Hospital, Fatehgarh Sahib from where he was referred to PGI, Chandigarh. The appellant's left leg was amputated above the knee. Claim petition under Section 166 read with Section 140 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 offending vehicle truck bearing registration No. HP-12-C-9625 driven by respondent No. 1. This finding of the learned Tribunal has attained finality. The learned Tribunal afforded compensation to the appellant detailed as hereunder:-

i.	Medical expenses, hospital charges+ attendant charges	₹49,000 + ₹30,000/-
ii.	Special diet	₹30,000/-
iii.	Transportation	₹30,000/-
iv.	Pain and suffering including trauma for loss of left leg	₹80,000/-
v.	Disability	₹1,00,000/-
vi.	Loss of future prospects	₹1,00,000/-
	Total	₹4,19,000/- (rounded off to ₹4,20,000/-
vii.	Artificial limb/prosthetic	₹1,20,000/-
	Total	₹5,40,000/-

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

Learned counsel for the appellant submits that compensation awarded to the appellant is required to be enhanced. The appellant was a young boy at the time of the accident pursuing his studies at that time. It is

further submitted that increment on account of loss of future prospects has not been afforded. Meagre compensation has been afforded on account of pain and suffering, transportation, special diet etc. It is, thus, prayed that compensation awarded to the appellant be enhanced accordingly.

Learned counsel for the respondent - insurance company 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 07.12.2011 be upheld.

I have heard learned counsel for the appellant and respondent No. 3 and have perused the file with their assistance .

There is no dispute regarding the accident which took place on 18.12.2008 due to rash and negligent driving of the offending vehicle by its driver - respondent No. 1. The date of birth of the appellant is admittedly 10.08.1993, therefore at the time of accident i.e. on 18.12.2008, he was 15 years old. Disability certificate (Ex.PW6/A) has been duly proved on record from where it is evident that the appellant suffered 80% permanent physical impairment. There was amputation of left leg above knee. PW5 Dr. Sharad Prabhakar, Senior Resident, Department of Orthopaedics, PGI, Chandigarh testified that the appellant was admitted at PGI on 18.12.2008 and discharged on 23.12.2008 after amputation of left leg. The entire treatment record of the claimant was proved. It is further stated by PW5 that claimant remained admitted from 09.04.2009 to 17.04.2009 for operation. Discharge summary and the follow up card were proved as Ex.CW5/A and Ex. CW5/E. Bills issued by the PGI in respect to the treatment and expenditure were duly proved on record.

Keeping in view the injuries and the disability suffered, functional disability of the appellant cannot be less than 60% and is so assessed. It has been held by the Hon'ble Supreme Court in **Sayed Sadiq etc. versus Divisional Manager, United India Insurance Company 2014 (1) R.C.R. (Civil) 765**, that the Court should be sensitive about the functional disability suffered by the claimant and award compensation accordingly. The appellant was a young boy at the time of the accident pursuing his studies at that time. It is considered just and expedient to assess the income of the injured claimant to be ₹4,000/-, as minimum wage of an unskilled labourer in the State of Punjab at the time of the accident was ₹3,642/- per month. Appellant is entitled to 40% increment on account of loss of future prospects in view of his age 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 ₹7,25,760 $[(₹4000 \times 60/100) + (60/100 \times 40/100 \times ₹4000) \times 12 \times 18]$. ₹79,000/- awarded by the learned Tribunal on account of medical expenses, hospital and attendant charges is maintained. Sum of ₹50,000/- is awarded on account of loss of amenities and ₹1,00,000/- on account of loss of marriage prospects. ₹30,000/- each awarded by the learned Tribunal on account of special diet and transportation is maintained. A sum of ₹80,000/- on account of pain and suffering is enhanced to ₹1,00,000/-. As the appellant was admittedly 15 years old at the time of the accident, it is apparent submitted that he would be required to change his prosthetic leg during his life time, thus, sum of ₹1,20,000/- is increased to ₹2,00,000/-.

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

Loss of future income	₹7,25,760
Medical expenses, hospital and attendant charges	₹79,000/-
Pain and suffering	₹1,00,000/-
Loss of amenities	₹50,000/-
Loss of marriage prospects	₹1,00,000/-
Special diet	₹30,000/-
Transportation	₹30,000/-
Artificial limb/Prosthetic	₹2,00,000/-
Total	₹13,14,760/-

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 amount of compensation.

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

February 05, 2019
rts

(Lisa Gill)
Judge

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