

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

FAO No.1976 of 2014 (O&M)
Date of decision: 06.12.2019

Liyakat Ali

.... Appellant

versus

Janak Raj and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vishal Nehra, Advocate
for the appellant.

Mr. Rahul Vats, Advocate
for respondent Nos.1 and 2.

Mr. Paul S. Saini, Advocate
for respondent No.3.

Manjari Nehru Kaul

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sonapat (in short 'the Tribunal') on account of the injuries sustained by him in a motor vehicular accident, which took place on 25.10.2011.

Admittedly, the claimant suffered multiple grievous injuries on various parts of his body in the accident, which took place on 25.10.2011 at about 2.00 am (midnight). Both of his legs were fractured in the said accident and subsequently one of the legs was amputated. The injured claimant was working as a driver at the time of accident and after the accident in question, he remained admitted in Jai Parkash Narain Trauma Centre, Delhi and thus, was bed ridden for a considerable period of time. It was claimed by the injured that due to the injuries sustained by him he has

now become 100% disabled.

Learned Tribunal returned a finding that it was due to the rash and negligent act of respondent No.1 – Janak Raj, driver of the offending vehicle that the claimant, aged 24 years, had sustained several injuries leading to permanent disability to the extent of 70% . The Tribunal thus, awarded compensation to the tune of Rs.4,59,393/- detailed herein as under:

<i>Sr. No.</i>	<i>Heads of claim</i>	<i>Amount awarded</i>
1	Monthly income after deducting 30% disability	Rs.3,000/- (-) Rs.900/- =Rs.2,100/-
2	Annual income after 70% disability	Rs.25,200/-
3	Multiplier	18
4	Total income (Rs.25,200 x 18)	Rs.4,53,600/-
5	Medical expenses	Rs.5,793/-
	TOTAL	Rs.4,59,393/-

Learned counsel for the claimant has challenged the impugned award on the ground that though he was working as a driver, his income had been wrongly assessed as Rs.3,000/- per month. He further submits that no future prospects have been assessed by the Tribunal as well as no amount of compensation awarded under other heads like pain and suffering, special diet, future treatment (artificial limb), transportation and attendant charges.

Heard learned counsel for the parties and perused the impugned award and other material available on record.

In my considered opinion, the compensation awarded by the Tribunal deserves to be revoked. There is no dispute that the claimant was

working as a driver. Hence, he would be treated as a skilled labourer and as per the minimum wages notified by Haryana Government, the income of the claimant is to be taken as Rs.5,000/- per month. The claimant is also entitled to 40% increase towards future prospects as he was 24 years of age at the time of accident. Thus, the monthly income of the injured-claimant would come to Rs.7,000/-p.m. The claimant would be deemed to have suffered cent percent disability as held by Hon'ble Supreme Court. The Supreme Court has held that in case of a driver of motor vehicle having suffered disability to the extent of 66% or more, he would be held to have suffered cent percent disability. Hence, the loss of monthly income of the claimant comes to Rs.7,000/- per month(Rs.7,000 x 100%) and the total loss of future income comes to Rs.7,000/- x 18 x 12 = 15,12,000/-.

As far as compensation under other heads are concerned, same also deserves to be revoked in the following terms:

<i>Sr. No.</i>	<i>Name of Head</i>	<i>Amount (Rs.)</i>
1	Pain and suffering	Rs.80,000/-
2	Medical expenses	Rs.5,793/-
3	Transportation charges	Rs.10,000/-
4	Attendant charges	Rs.15,000/-
5	Special diet	Rs.20,000/-
6	Loss of amenities of life	Rs.50,000/-
7	Loss of income during treatment	Rs.20,000/-
8	Future treatment (artificial leg)	Rs.1,00,000/-
9	Total	Rs.3,00,793/-

In view of the above, total compensation comes to Rs.15,12,000/- + Rs.3,00,793/- =Rs.18,12,793/- (round off to Rs.18,13,000/-).

As a sequel to the above discussion, the enhanced amount of

compensation to which the claimant is entitled is enhanced from Rs.4,59,393/- to Rs.18,13,000/-. The enhanced amount so awarded shall carry interest @ 9% per annum from the date of filing of claim petition till its realisation. The recovery rights of respondent-Insurance company shall remain intact and would be recoverable from respondents No.1 and 2 in accordance with law.

Accordingly, the award is modified and the appeal stands partly allowed in the above terms.

06.12.2019
sonia

(Manjari Nehru Kaul)
Judge

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No