

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

219

FAO No.22 of 2014

Date of Decision :September 11, 2019

Jagan Nath

.....Appellant

VERSUS

Kishan Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Shiv Kumar, Advocate
for the appellant.

Mr. R.N. Singal, Advocate
for respondents No.1 and 2.

Mr. Ram Avtar, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (Oral)

The present appeal has been filed by the appellant-claimant against the enhancement of the amount granted by the Tribunal vide award dated 02.09.2013 passed by the Motor Accident Claims Tribunal, Faridabad.

While praying for allowing the appeal filed by the claimant, learned counsel for the appellant submitted that both legs of the appellant-claimant were amputated. The appellant-claimant was a tailor, therefore, his disability, which was 100% , have been accordingly assessed. His disability certificate (Ex.P-4) which specifically stated that his disability is 89.16% but the Tribunal has taken only 45%. It is further submitted that the amount towards the various heads i.e. attendant charges, special diet, pain and suffering is also on the lower side.

Learned counsel for the respondent, however, while opposing the prayer for enhancement of the amount that there is no loss in the income

as per the findings recorded by the Tribunal. He can continue to work. His disability does not come in the way of carrying his profession as a tailor. Therefore, the disability of the appellant-claimant has been rightly taken into consideration as only 45%.

It is not disputed that both the legs of the appellant/claimant are amputated. It is a fact that the tailor requires to move around shop, take measurement as well as other ancillaries work related with his job as a tailor. It is also a fact that in today's date and age, 80% of the work is done by Sewing machine with paddle. The appellant-claimant has been deprived of the same. To say that there can be no loss of income and the functional disability only to the extent of 45 % in the present case, is therefore, unjust.

Accordingly, this Court deems it proper to consider the same to the extent of 75%. Taking the age to be 56 years, the multiplier has been rightly applied. Further, in view of the said disability, the appellant-claimant shall require the attendant of his whole life and Rs.26,000/- towards the attendant charges is on the lower side which should be enhanced by further of another amount of Rs.25,000/-.

Accordingly, the appeal filed by the appellant-claimant is allowed and he is entitled to the enhanced amount as per the calculation provided:-

Sr. No.	Head	Amount assessed
1	Income	Rs.6000/- p.m. x 12 = Rs.72,000/-
2	Multiplier	9
2	75% loss on account of functional disability	4500 X 12X 9 = Rs.4,86,000/-
3	Attendant charges	Rs.25,000/-
4	Total	Rs.7,03,800/-
5	Compensation awarded by the Tribunal	Rs.4,90,400/-
6	Differences	Rs.2,13,400/-

The enhanced amount of Rs.2,13,400/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 6% till payment after the expiry of two months.

11.09.2019
hemlata

(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No