

FAO No. 1575 of 2015

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

FAO No. 1575 of 2015

Date of Decision: April 05, 2019

Sunil Kumar

..... Appellants(s)

Versus

Surender Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Mukesh Yadav, Advocate
for the appellant.

Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate
for respondents no.1 & 2.

Mr. S.P. Arora, Advocate
for respondent no.3 - insurance company.

LISA GILL, J.(oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimant vide award dated 05.11.2014, passed by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal).

Appellant-claimant filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of injuries sustained by him in a motor vehicle accident, which took place on 23.10.2011. It is pleaded that the accident in question took place due to the rash and negligent driving of the offending Bolero bearing registration No. HR-34C-3659, by its driver Surender Singh - respondent no.1. Learned Tribunal

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taking into account the disability certificate Ex. PW3/A wherein the appellant is certified to have suffered permanent disability of 13% and the other circumstances, awarded a sum of Rs. 87,853/- as compensation, detail of which is as under:-

1.	Disability	26,000/-
2.	Medical expenses	30,749/-
3.	Transportation charges	6,104/-
4.	Pain and suffering	10,000/-
5.	Special diet	5,000/-
6.	Attendant charges	5,000/-
7.	Loss of income	5,000/-
	Total	87,853/-

Learned counsel for the appellant argues that the appellant was working as a carpenter at the time of the accident. He had suffered permanent disability, which necessarily leads to loss of future income as well. It is prayed that meagre compensation awarded by the learned Tribunal be enhanced.

Learned counsel for respondents, however, prays that there is no scope for any enhancement of compensation awarded to the appellant, as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the record.

There is no dispute regarding the appellant having suffered injuries in the accident, which took place on 23.10.2011, due to the rash and

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negligent driving of the offending Bolero bearing registration No. HR-34C-3659, by its driver Surender Singh-respondent no.1. There is no challenge to this finding by the respondents. It is further not in dispute that the appellant was 28 years old at the time of the accident. As per the disability certificate Ex.PW3/A, it is clearly mentioned that nailing was done at the lower end of the left femur and range of motion of left knee joint was reduced by 30% with deep complications. Appellant is certified to be permanently disabled to the extent of 13%. PW-3 Dr. Dinesh Podar, Deputy Civil Surgeon, Narnaul has proved disability certificate Ex.PW3/A.

In this view of the matter, it is clear that the appellant has suffered functional disability, which would necessarily affect his future income as well. Even if the appellant is considered to be a daily wager, his functional disability cannot be assessed to be less than 10%. Keeping in view the factual matrix of the case and evidence on record, functional disability of the appellant is assessed as 10%.

There is no evidence on record to prove that the appellant was earning a sum of Rs.25,000/- per month by working as a carpenter at the time of the accident. Minimum wage of a labourer at the time of accident in the State of Haryana was Rs.4,643/- per month. Income of the appellant is assessed as Rs.4,643/- per month and an increment of 40% is afforded.

Compensation to the appellant is thus required to be reworked in terms of the guidelines laid down in **Sayed Sadiq etc. Vs. Divisional Manager, United India Insurance Company, 2014(1) RCR (Civil) 765.** Loss of income is assessed as Rs.464/- per month (4,643/- x 10%). With

increase in income on account of future prospects at the rate of 40%, the amount is [464 + 186 (464 x 40%)] Rs.650/- per month i.e. Rs. 7,800/- per annum. Multiplier of 17 is to be applied. Loss of earnings is, thus, assessed as Rs.1,32,600/- [7,800 x 17].

Appellant is also entitled to a sum of Rs.25,000/- instead of Rs.10,000/- awarded by learned Tribunal for pain and sufferings. Appellant is further entitled to a sum of Rs.20,000/- for loss of amenities and Rs.10,000/- each towards special diet and attendant charges instead of Rs.5,000/- each awarded by the learned Tribunal on these counts. Compensation towards medical expenses, loss of income and transportation charges as awarded by the learned Tribunal is maintained.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

1.	Disability	1,32,600/-
2.	Medical expenses	30,749/-
3.	Transportation charges	6,104/-
4.	Pain and suffering	25,000/-
5.	Special diet	10,000/-
6.	Attendant charges	10,000/-
7.	Loss of income	5,000/-
	Total	2,19,453/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the enhanced amount at the rate of

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7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

April 05, 2019.
Sunil

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