

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 8103 of 2014

Date of Decision: February 11, 2019.

Ankur APPELLANT (s)
Versus
Manjeet and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Akashdeep Singh, Advocate
for the appellant.

Ms. Gurdeep Kaur, Advocate for
Mr. Sandeep K.Sharma, Advocate
for respondent No.1.

Ms. Shamsheer Kaur, Advocate
for respondent No.3 – Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, Rohtak (for short, the 'Tribunal') vide impugned award dated 08.05.2014 on account of the injuries and disability suffered by him in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, a petition under Section 166 of Motor Vehicles Act (for short, the 'Act') was preferred by the appellant seeking compensation on account of the injuries and disability suffered by him in a motor vehicle accident, which took place on 04.10.2011. It is

mentioned in the said claim petition that the appellant alongwith his cousin Ashok were waiting for a bus at Myana turn on Rohtak – Jhajjar road for going to school on 04.10.2011 at about 7.30 a.m. A jeep bearing No.PB-32G-2002 being driven at a high speed in rash and negligent manner by respondent No.1, came from Rohtak side and hit the appellant. As a result thereof, the appellant received multiple injuries. The injured was removed to PGIMS, Rohtak. FIR (Ex.P1) was lodged against respondent No.1 on the statement of PW1 Satish. The learned Tribunal on consideration of the facts, circumstances and evidence on record held that the accident in question took place due to the rash and negligent driving of jeep bearing No. PB-32G-2002 by respondent No.1 – Manjeet. Finding of the learned Tribunal in this respect has attained finality.

Appellant was aged 17 years at the time of the accident. The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 25% permanent disability. Learned Tribunal awarded a sum of ₹5,50,000/- as compensation on account of the injuries and disability suffered by the appellant, details of which are hereunder:-

- | | | |
|-------------------------------|---|-------------|
| 1. Medical and other expenses | : | ₹2,75,000/- |
| 2. Loss of income | : | ₹2,00,000/- |
| 3. Pain and suffering | : | ₹75,000/- |

Aggrieved from the quantum of compensation, present appeal has been preferred by the injured/appellant.

Learned counsel for the appellant submits that learned Tribunal has grossly erred in awarding a lumpsum amount of ₹2,00,000/- towards loss of income. The appellant was a student of 10+1 at the relevant time. His studies and future prospects in life were severely hindered due to the impairment suffered by

him on account of the injuries. Notional income of the appellant should have been assessed as ₹10,000/- per month and loss of income is to be calculated accordingly. A meagre compensation has been awarded under the other heads as well. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3 – Insurance Company however refutes the abovesaid averments and submits that the compensation awarded by the learned Tribunal is just and reasonable. Dismissal of the appeal is prayed for.

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

Liability of the Insurance Company in this case is not in dispute. Neither is there a dispute regarding injuries caused to the claimant/appellant in the motor vehicle accident which occurred on 04.10.2011 due to the rash and negligent driving of jeep No.PB-32G-2002 by respondent No.1 – Manjeet. It is a matter of record that the appellant was immediately taken to PGIMS, Rohtak at the first instance after the accident and then shifted to Balaji Hospital, Delhi on the same day where he was diagnosed with 'intra-cerebral bleed with damage to corpus coliseum'. He remained admitted in Balaji Hospital upto 25.10.2011. Appellant suffered permanent disability to the extent of 25% on account of borderline intellectual functioning as is reflected in Disability Certificate (Ex.P73), which was duly proved by PW5 Dr. Rajeev Dogra.

There is no evidence on record to rebut the claim of the appellant that he was a student of 10+1 at the time of the accident. PW4 Poonam wife of late Jage Ram, mother of the appellant specifically deposed that her son, the appellant, was studying in Vaish Senior Secondary School, Rohtak and was a

student of 10+1. His name was struck off the rolls on 20.10.2011 as he could not attend school due to the accident. He was re-admitted on 29.11.2011, but he could not clear his examination of that year due to memory loss. Certificate dated 30.11.2011 from the Vaish Senior Secondary School, Rohtak is available on record as Ex.P68. There is indeed no evidence on record to rebut the said claim. However, there is no evidence on record to show the academic calibre of the appellant. The Hon'ble Supreme Court in **V.Mekala v. M. Malathi and another, (2014) 11 SCC 178**, while referring to the academic record of the appellant observed that the injured was a brilliant student. Therefore, notional income of the injured in the said case was assessed as ₹10,000/- per month for calculating just and reasonable compensation under the head of loss of income. In the present case, it is deemed appropriate to assess notional income of the appellant as ₹8,000/- per month.

Compensation to the appellant is thus required to be reworked in terms of the guidelines laid down by the Hon'ble Supreme Court in **Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765**. Needless to say, functional disability suffered by the appellant cannot be less than 25% in this case. Therefore, loss of income is assessed as ₹2,000/- per month (8,000x25%).

Increase in income on account of future prospects at the rate of 40% has to be afforded taking the amount to $[(2000 + (2000 \times 40\%)] = ₹2,800/-$ per month i.e., ₹33,600/- per annum. Age of the appellant was admittedly 17 years at the relevant time, therefore, multiplier of 18 is to be applied. Loss of earnings is, thus, assessed as **₹6,04,800/-** $[33,600 \times 18]$.

Instead of ₹75,000/- awarded towards pain and sufferings, the appellant is held entitled to ₹50,000/- each on account of loss of amenities, marriage prospects as well as pain and suffering. A sum of ₹15,000/- is awarded on account of special diet, attendant charges and transportation. ₹2,75,000/- awarded by the learned Tribunal on account of medical and hospital expenses is maintained.

Appellant is, thus, entitled to compensation detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of earnings	₹6,04,800
2.	Pain and sufferings	₹50,000
3.	Loss of amenities	₹50,000
4.	Loss of marriage prospects	₹50,000
5.	Medical expenses	₹2,75,000
6.	Special diet, transportation and attendant charges	₹15,000
Grand Total		₹10,44,800/-

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

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

February 11 , 2019.
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(LISA GILL)
JUDGE

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