

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

**F.A.O. No.3465 of 2018(O&M)**

**Date of Decision: 26.03.2019**

Jai Bhagwan

.....Appellant.

Versus

Chunni Lal and others

..... Respondents.

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Rajesh Goyal, Advocate  
for the appellant.

Service of respondents no.1 to 3 dispensed with vide order  
dated 24.09.2018.

Mr. Lalit Garg, Advocate  
for respondent no.4.

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**LISA GILL, J.**

This appeal has been filed by the appellant-claimant seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Panipat (for short 'tribunal), vide impugned award dated 06.12.2017, on account of injuries suffered by the appellant in a motor vehicle accident which took place on 27.03.2015.

Petition under Section 166 of the Motor Vehciles Act (for short 'Act) was filed by the claimant with the averments that he was involved in a motor vehicle accident which took place on 27.03.2015. It was averred that the accident took place due to rash and negligent driving of the motorcycle by respondent no.1-Chunni Lal. Right leg of the appellant was amputated below the knee joint. His permanent disability was assessed as 75%. Learned tribunal on considering the evidence on record, facts and

circumstances concluded that the accident indeed took place due to the rash and negligent driving of the offending motorcycle by its driver-respondent no.1-Chunni Lal.

Learned tribunal awarded a sum of ₹4,68,582/-, which is detailed as hereunder:-

|                                                                     |                    |
|---------------------------------------------------------------------|--------------------|
| Medicines and treatment charges                                     | ₹ 43,182/-         |
| 75% disability                                                      | ₹3,65,400/-        |
| Costs of transportation, attendant, special diet and loss of income | ₹30,000/-          |
| Pain and sufferings                                                 | ₹30,000/-          |
| <b>Total</b>                                                        | <b>₹4,68,582/-</b> |

Learned counsel for the appellant argues that the appellant aged about 61 to 65 years at the time of the accident suffered amputation of his right leg, therefore his disability should be treated to be 100% and not 75% as done by the learned tribunal. It is further submitted that meagre compensation has been awarded under the other heads. It is, thus, prayed that compensation awarded to the appellant be enhanced.

Learned counsel for the respondent no.4-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

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

There is no dispute that the appellant was in the age group of 61 to 65 years at the time of the accident. PW-3-Dr. Pardeep Kumar, Orthopedic Surgeon, Civil Hospital, Panipat has proved the disability certificate Ex.P-1, which proves that the appellant suffered amputation of his

right leg below the right knee joint. His permanent disability was assessed as 75%. The claimant was admitted in the Civil Hospital at Panipat after the accident on 27.03.2015, but he was thereafter referred to BPS, Govt. Medical College for Women, Khanpur Kalan, Sonapat, where he remained admitted from 27.03.2015 to 18.04.2015. PW-5-Deepak Soni, Post Coding Clerk, B.P.S. Govt. Medical College, Khanpur, has proved the treatment record Ex.P-19 to Ex.P-24 of the appellant. It is proved that the appellant was treated for traumatic amputation of his right leg. PW-6-Dr. Narender-Dr. Narender, Orthopedic Surgeon, Galaxy Hospital, Panipat, has proved the treatment record as also the medical treatment afforded to the appellant. PW-4-Chander Hans, Proprietor M/s Chhikara Medicos & Surgical Centre, BPS Government Medical College, Khanpur, has proved the bills in respect of the medicines etc. Though, the appellant claimed to be earning ₹15,000/- per month by doing labour work and running a mini dairy, there is no evidence on record in respect to the same except the bald statement of the claimant himself. In this situation, learned tribunal has rightly treated the appellant to be a daily wager. Income of the appellant as assessed by the learned tribunal as ₹5800/- per month, is maintained.

I do not find any merit in the argument raised by learned counsel for the appellant that functional disability of the appellant should be treated as 100%. Appellant has suffered amputation of his right leg below the knee joint and there is no evidence on record to prove that the appellant is rendered totally incapable of any work, therefore it cannot be said that functional disability of the appellant in the present situation is 100%. Thus, functional disability of the appellant as assessed by the learned tribunal, is

also maintained. If loss of income is calculated in accordance with the guidelines of the Hon'ble Supreme Court in **Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765**, the amount is about the same as awarded by the learned tribunal on account of the disability i.e. ₹3,65,400/-. Therefore, the same is maintained.

However, instead of consolidated sum of ₹30,000 afforded by the learned tribunal on account of transportation, attendant, special diet and loss of income, the appellant is entitled to a sum of ₹10,000/- each for attendant charges, special diet and ₹5000/- for transportation charges.

Considering the nature of the injury suffered by the appellant, it can reasonably be assumed that he would not have been able to work for at-least six months. Therefore, he is entitled to loss of income for a period of six months. Thus, appellant is entitled to a sum of ₹34,800/- (₹5800/- x 6) for loss of income for a period of six months. He is also entitled to a sum of ₹50,000/- for prosthetic limb. Compensation awarded by the learned tribunal for the expenses incurred on the medical treatment charges as per the bills proved on record, is maintained as ₹43,182/-. Appellant is entitled to ₹50,000/- instead of ₹30,000/- for pain and suffering.

Claimant-Jai Bhagwan, on account of the injuries received by him, is entitled to compensation which is re-worked as under:-

| Sr. No. | Heads of Claim       | Amount                    |
|---------|----------------------|---------------------------|
| 1.      | Income               | ₹5800/-                   |
| 2.      | Permanent disability | 75% (5800-1450)= ₹4350/-  |
| 3.      | Multiplier           | 7                         |
| 4.      | Loss of earnings     | 4350/- x 12x7=₹3,65,400/- |
| 5.      | Loss of income for a | ₹34,800/- (₹5800x 6)      |

|     |                        |                    |
|-----|------------------------|--------------------|
|     | period of six months   |                    |
| 6.  | Medical expenses       | ₹43,182/-          |
| 7.  | Transportation charges | ₹5,000/-           |
| 8.  | Special diet           | ₹10,000/-          |
| 9.  | Attendant charges      | ₹10,000/-          |
| 10. | Pain and sufferings    | ₹50,000/-          |
| 11. | Prosthetic limb        | ₹50,000/-          |
|     | <b>Grand Total</b>     | <b>₹5,68,382/-</b> |

Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5 % per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimant shall stand deducted.

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

26.03.2019  
s.khan

[LISA GILL]  
Judge

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