

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

268

FAO-9420-2014

Date of Decision : July 25, 2019

DHARMENDER

.....Appellant

VERSUS

TEJBIR SINGH & ANR

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. R.S.Malik, Advocate
for the appellant.

Mr. Sanjeev Kodan, Advocate
for respondent No.2.

NIRMALJIT KAUR, J. (Oral)

The present appeal has been filed by the claimant seeking enhancement of the amount awarded by the Tribunal vide award dated 30.5.2014.

A sum of Rs.2,36,376/- was awarded as compensation in the injury case wherein the appellant suffered 75% permanent disability. While claiming for enhancement, learned counsel for the appellant submitted that the permanent disability of 75% was towards the amputation of the right leg near thigh and above knee. In spite of the same, only Rs.2,36,376/- has been awarded. It is contended that the said amount is inadequate and that he was entitled to enhancement in view of the well settled proposition of law laid down by the Hon'ble Supreme Court in the case of **Dinesh Singh Vs. Bajaj Allianz General Insurance**

Co. Ltd., 2014(5) Scale 537 in which Rs.1 lac was awarded for 60% permanent disability, wherein, even the multiplier formula was applied considering the loss towards future earning. While relying upon the judgment rendered in the case of Rajan Vs. Soly Sebastian and others, 2015(9) JT 78, it was contended that the appellant was entitled to the future prospects of 50% as the injury in the present case amount to 100% disability. It is further contended that the Tribunal erred in not applying the multiplier as held by the Hon'ble Supreme Court in the case of Raj Kumar Vs. Ajay Kumar and another 2011 ACJ 1.

Learned counsel for the respondent-Insurance Company while opposing the prayer of the appellant submitted that the disability is always as per the limb or the functional disability as the case may be. In the present case, the disability is qua the limb which is stated to be 75% and, therefore, the appellant is not entitled for the future prospects. At the same time, there is no dispute with the well settled proposition of law laid down by the Hon'ble Supreme Court in the various judgments as mentioned above wherein the appellant is entitled to the multiplier in case of permanent disability is of such a nature. The appellant was 20 years of age at the time of the accident. He has a wife and two children as well as parents to support. His right leg has been amputated upto the thigh. Taking into account his age, he has been debarred from exercising his option qua various services. It would always come in his way even to do his agricultural work and to perform his other daily activities. He has a long life ahead of him and such a disability is bound to only get worse

with time. In these circumstances, the Tribunal has erred in not applying the multiplier as laid down by the Hon'ble Supreme Court in the case of Dinesh Singh and Raj Kumar (Supra). Hence, even if the disability is taken as 75% as already assessed by the Tribunal, the multiplier of 18 requires to be applied in terms of the judgment rendered in the case of **Sarla Verma Vs. DTC, 2009(3) RCR(Civil) 77**. Learned counsel for the respondent-Insurance Company is also not able to dispute that the claimants are entitled to future prospects to the extent of 40% as per the judgment rendered in the case of **National Insurance Company Limited vs. Pranay Sethi and others, 2017 AIR(SC) 5157**. The appellant also deserves some amount towards pain and suffering, loss of amenities, loss of earning during treatment, transportation, special diet and attendant.

Accordingly, the present appeal is allowed to the extent as per the calculation provided as under:-

Minimum wages	Rs.4967/-	Rs.5000/-
Future prospects	40.00%	Rs.2000/-
Income	Rs.5000+2000	Rs.7000/-
Loss of earning	7000X12X18X75/100	Rs.11,34,000/-
Pain and suffering		Rs.1,00,000/-
Loss of amenities		Rs.1,00,000/-
Loss of earning during treatment		Rs.25,000/-
Tansportation		Rs.20,000/-
Special diet		Rs.20,000/-
Attendant		Rs.20,000/-
Total		Rs.14,19,000/-
MACT award		Rs.2,36,376/-
Differences		Rs.11,82,624/-

The balance amount of Rs.11,82,624/- 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 @ 12% till payment after the expiry of two months.

July 25, 2019
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(NIRMALJIT KAUR)
JUDGE

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