

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

FAO No. 1809 of 2016

Date of Decision: August 05 , 2021.

Baldev Singh @ Deb Singh

..... APPELLANT (s)

Versus

Pardeep Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rajinder Singh Rangpuri, Advocate
for the appellant.

Mr. M.S.Yadav, Advocate for
Mr. Sunny K.Singla, Advocate
for respondent No.2.

Mr. Satpal Dhamija, Advocate
for respondent No.3 – Insurance Company.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing
due to outbreak of the pandemic, COVID-19.

Appellant-claimant has filed this appeal seeking enhancement of
compensation awarded by the learned Motor Accident Claims Tribunal, Sri
Muktsar Sahib (for short, the 'Tribunal') vide impugned award dated 21.11.2015
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 read with Section 140 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 04.07.2014. FIR (Ex.C1) was registered against the respondent-driver in respect to the incident. Learned Tribunal on considering the evidence on record concluded that the appellant sustained injuries in the said motor vehicle accident, which led to amputation of his left leg. It is held that the said accident was caused due to the rash and negligent driving of canter bearing No. PB-12G-4536 by respondent no.1 – Pardeep Singh.

Learned Tribunal awarded a total compensation of Rs.5,40,000/- to the claimant, which is detailed as hereunder:-

1.	Expenditure incurred on medical treatment	3,00,000/-
2.	For loss of earnings including future earnings on account of permanent disability	1,50,000/-
3.	For pain and sufferings	30,000/-
4.	For conveyance charges	20,000/-
5.	For special diet and attendant charges	40,000/-

Aggrieved from the quantum of the compensation, present appeal has been filed.

Learned counsel for the appellant argues that meagre compensation has been awarded to the appellant, who is now unable to earn his livelihood on account of amputation of his leg as he was earlier working as a driver. The method used for computing loss of earnings, it is submitted, is incorrect. It is thus prayed that compensation awarded to the appellant be enhanced.

Mr. Dhamija, learned counsel for respondent No.3 – Insurance

Company while seeking dismissal of the appeal, submits that just and reasonable compensation has been awarded to the appellant, which requires no enhancement of any sort. Learned counsel for the Insurance company argues that there is no evidence on record to indicate that the appellant was a driver by profession. Dismissal of the appeal is prayed for.

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

Liability of the Insurance Company in this case is not in dispute. Neither is there a dispute about the appellant having lost his left leg above knee in the motor vehicle accident which took place on 04.07.2014 due to the rash and negligent driving of canter No.PB-12G-4536 by respondent No.1 – Pardeep Singh. Injuries suffered by the appellant are matter of record. There is no dispute regarding the medical evidence which has been brought on record in this respect. Therefore, detailed reference thereto is not being made.

Learned counsel for the appellant on a pointed query is unable to point out any evidence on record to indicate that the appellant was working as a driver at the time of the accident. Be that as it may, even if the appellant is taken to be a daily wager, there can be no doubt that the compensation awarded to the appellant is indeed meagre. While treating the appellant to be a labourer, his monthly income is assessed as ₹6,467/- per month i.e., the minimum wage available in the State of Punjab at the time of the accident i.e., 04.07.2014.

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. As per the disability certificate, the appellant has suffered disability to the extent of 80%. At this stage, it is relevant to note that it is the functional disability of the appellant which has to be taken into account while assessing compensation. Appellant has been treated to be a daily wager in the absence of any evidence to indicate that he was working as a driver. Be that as it may, it cannot by any stretch of imagination be said that functional disability of the appellant is less than 80%. Functional disability is thus assessed as 80%. Accordingly, loss of income is assessed as ₹5,174/- per month (80% of 6,467).

It is not in dispute that the appellant was about 41/42 years old at the time of the accident. Increase in income on account of future prospects at the rate of 25% has to be afforded taking the amount to $[(5174 + (5174 \times 25\%)] = ₹6,468/-$ per month i.e., ₹77,616/- per annum. Multiplier of 14 is to be applied in this case. Loss of earnings is, thus, assessed as ₹10,86,624/- $[77,616 \times 14]$. In view of the compensation as calculated above, appellant is not entitled to compensation of ₹1,50,000/- as awarded by the learned Tribunal on account of loss of earnings including future earnings on account of permanent disability.

Compensation of ₹3,00,000/- awarded on account of expenditure incurred on medical treatment is upheld as the same has been awarded on the basis of actual medical bills on record.

Instead of ₹30,000/- awarded towards pain and sufferings, the appellant is held entitled to ₹1,00,000/-. Appellant is also held entitled to loss of amenities, which is assessed as ₹50,000/-. As the appellant's left leg has been amputated above knee, he is held entitled for ₹1,00,000/- for prosthesis.

₹20,000/- awarded towards conveyance charges and ₹40,000/- awarded on

account of special diet as well as attendant charges are 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	₹10,86,624
2.	Pain and sufferings	₹1,00,000
3.	Loss of amenities	₹50,000
4.	Cost of prosthesis	₹1,00,000
5.	Medical expenses	₹3,00,000
6.	Special diet	₹40,000
7.	Conveyance charges	₹20,000
Grand Total		₹16,96,624/-

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 6% 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.

August 05 , 2021.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No