

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3625 of 2019 (O&M)
Date of decision: 30th November, 2022

Pintu
... Appellant
Versus
Manish & others
... Respondents

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jarnail S. Saneta, Advocate for the appellants.
Mr. S.S. Sidhu, Advocate for respondent No. 3.

MANJARI NEHRU KAUL, J.

The present appeal has been filed by the injured/claimant to impugn the award dated 08.02.2019 passed by Motor Accident Claims Tribunal, Panipat, wherein the following compensation was awarded to him on account of the injuries suffered by him in a motor vehicular accident which took place on 11.04.2015:-

Sr. No.	Head	Amount
1.	Monthly income	₹ 7,000/-
2.	Deduction towards personal expenses @ 50%	₹ 3,500/-
3.	Dependency	₹ 3,500/-
4.	Annual dependency (₹ 3,500 x 12)	₹ 42,000/-
5.	Multiplier	18
6.	Total amount	₹ 7,56,000/-
7.	Pain and suffering	₹ 50,000/-
8.	Diet and transportation	₹ 10,000/-
	Total compensation	₹ 8,16,000/-

The amount of compensation along with interest @ 7.5% p.a. was ordered to be paid by the respondents in the claim petition, jointly and severally.

As per the pleaded case of the injured/claimant, on the fateful day i.e. 11.04.2015 when he along with his friend was going on motorcycle bearing registration number HR-10G-6556, the offending car bearing registration number HR-10Q-1252 (hereinafter referred to as, 'the offending vehicle') came in a rash and negligent manner and collided with his motorcycle. On account of the collision, the injured claimant along with his friend, who was pillion riding with him, received multiple grievous injuries on his person. The injured appellant was operated upon his leg, however due to an infection in the operated leg, he was unable to walk and subsequently, his right leg was amputated resulting in 80% permanent disability. The injured appellant was 18 years of age at the time of accident in question and it was pleaded that he was earning ₹ 15,000/- per month prior to the accident. However, after his leg was amputated, he was unable to do any work without crutches and had been rendered handicapped for the rest of his life.

Learned counsel for the appellant/injured/claimant, while drawing attention of this Court to the compensation awarded, vehemently argued that while awarding compensation the Tribunal failed to appreciate that the injured was a young boy of 18 years of age and on account of the amputation of his right leg, his permanent

disability should have been treated as 100% instead of 50%. Still further, as the injured was doing the work of a labourer, his earning capacity had come to a virtual Nil. Furthermore, it was submitted that the minimum wages assessed in respect of a labourer as per the notification of the State Government for the relevant period was ₹8,137.95, however, the Tribunal by treating him as an unskilled labourer had assessed his notional income at the rate of ₹ 7,000/- per month. Learned counsel further submitted that the Tribunal also failed to take note of the factum of increase in the monthly income of the injured on account of the future prospects. It was also submitted that even under the other conventional heads, the compensation awarded was highly inadequate, as the Tribunal had failed to award any compensation for loss of amenities and marriage prospects as well as the expenses which he was most likely to incur on future medical treatment.

Per contra, learned counsel for the respondent Insurance Company while opposing the prayer and submissions made by the counsel opposite, has submitted that the income of the injured claimant has rightly been assessed by the Tribunal at the rate of ₹ 7,000/- per month and he has been adequately compensated for the permanent disability suffered by him. He has further submitted that no evidence was led by the appellant injured qua any expenses which were likely to be incurred by him towards future medical treatment.

I have heard learned counsel for the parties and perused the relevant material on record.

This Court finds no force in the submissions made by the learned counsel for the injured/claimant that his monthly income has not been correctly assessed and has been assessed on the lower side. The minimum wages notified by the State Government for the relevant period in respect of unskilled worker were ₹ 5,812.75 per month, which is less than the monthly income assessed by the Tribunal. However, since the Insurance Company has not impugned the award by way of an appeal, this Court is not inclined to interfere with the same. The Tribunal, however, erred in assessing the functional disability of the injured claimant at 50%. It would be appropriate to reassess the functional disability @ 80% in view of the permanent disability admittedly suffered by the claimant to the extent of 80%, on account of the amputation of his right leg. The amputation of the right leg of the injured claimant from his thigh downwards would without a doubt come in his way in not only doing his daily chores but would also significantly affect his earning capacity.

This Court concurs with the submissions made by the learned counsel for the injured claimant that since he was 18 years of age at the time of accident in question, he shall be entitled to 40% addition to his income towards future prospects. Besides this, the injured claimant would also stand entitled for being compensated in the sum of ₹ 1.50 lacs for loss of amenities, ₹ 2.00 lacs towards loss of marriage prospects and another sum of ₹ 1.50 lacs for future medical expenses.

As a sequel to the above, the compensation payable to the injured claimant is reassessed as follows:

Sr. No.	Head		Amount
1.	Loss of future income (₹ 16,93,440/-)	Monthly income	₹ 7,000/-
		Annual income	₹ 84,000/-
		Addition of 40% for future prospects (33,600 + 84,000)	₹ 1,17,600/-
		Multiplier (1,17,600 x 18)	₹ 21,16,800/-
		Functional disability (80%) (21,16,800 x 80%)	₹ 16,93,440/-
2.	Pain and suffering		₹ 50,000/-
3.	Diet and transportation		₹ 10,000/-
4.	Loss of amenities		₹ 1,50,000/-
5.	Loss of marriage prospects		₹ 2,00,000/-
6.	Future medical expenses		₹ 1,50,000/-
	Total compensation		₹ 22,53,440/-

The appellant/claimant is, therefore, entitled to a total compensation of ₹ 22,53,440/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount.

With these modifications, the instant appeal stands disposed off.

(MANJARI NEHRU KAUL)
JUDGE

November 30, 2022
rps

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