

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

289

**FAO-3472-2019 (O&M)
Date of decision: 10.05.2022**

United India Insurance Co. Ltd.Appellant

Versus

Chattar Pal and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Lalit Garg, Advocate
for the appellant.

Mr. Jai Singh Yadav, Advocate
for respondent No.1.

MANJARI NEHRU KAUL, J. (ORAL)

CM-12223-CII-2019

Prayer in the instant application is for condonation of delay of 78 days in filing the appeal.

Mr. Jai Singh Yadav, Advocate has put in an appearance on behalf of respondent No.1 and filed his power of attorney in the Court today which is taken on record subject to all just exceptions.

Learned counsel appearing for respondent No.1 submits that he does not have any objection in allowing the application.

In view of the reasons mentioned in the application and no objection from the counsel opposite, the application is allowed and the delay of 78 days in filing the appeal is hereby condoned.

FAO-3472-2019 (O&M)

The instant appeal has been preferred by the insurance company to impugn the award dated 05.11.2018 passed by learned Motor Accidents Claims Tribunal, Rewari (for short, 'the Tribunal')

vide which compensation in the sum of Rs.21,92,781/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization was awarded to respondent No.1/claimant/injured.

The brief facts as pleaded by respondent No.1/claimant in his claim petition filed under Section 166 of the Motor Vehicles Act, 1988 may be noticed as thus. On 13.07.2016, respondent No.1/claimant along with his cousin Sunder Lal was returning to Dharuhera on motorcycle bearing registration No.HR-72-3299 after attending a marriage. When they reached Gopal Dev Chowk at about 11:30 P.M. a trolly bearing registration No.RJ-42GA-0511 (hereinafter called as 'offending vehicle') came from behind in a rash and negligent manner being driven by respondent No.2 herein and collided with motorcycle of respondent No.1/claimant. Resultantly, respondent No.1/claimant sustained serious injuries all over his body. FIR No.142 dated 14.07.2016 under Sections 279 and 338 IPC was got registered at Police Station Rampura. After the accident in question, respondent No.1/claimant was removed to Government Hospital, Rewari from where he was referred to Birendra Hospital, Rewari. Respondent No.1/claimant was 30 years old at the time of accident. He was stated to be an agriculturist and a dairy farmer, earning about Rs.20,000/- per month. On account of the injuries sustained in the accident in question, the right leg of respondent No.1/claimant was amputated. On the basis of evidence led and other material on record, respondent No.1/claimant was awarded the following compensation:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.8,000/-
2.	Future prospects (40%)	Rs.8,000/- x 40% = Rs.3,200/-
3.	Monthly income after adding future prospects	Rs.8,000/- + Rs.3,200/- = Rs.11,200/-
4.	Permanent disability	75%
5.	Loss of annual income	Rs.8,400/- x 12=Rs.1,00,800/-
6.	Multiplier	17
7.	Loss of future earnings	Rs.1,00,800/- x 17 = Rs.17,13,600/-
8.	Loss of amenities	Rs.50,000/-
9.	Transportation charges	Rs.22,200/-
	Total compensation including medical bill charges etc.	Rs.21,92,781/-

Learned counsel for the appellant insurance company while impugning the award passed by learned Tribunal submits that no doubt the right leg of respondent No.1/claimant was amputated, however, learned Tribunal erred in assessing the percentage of functional disability as 75% which in fact should have been not more than 35% as it was only right side of his leg which was amputated below the knee. He further submits that the Tribunal gravely erred in awarding 40% towards loss of future prospects which he was not entitled to.

Learned counsel for respondent No.1 while opposing the prayer and submissions made by the counsel opposite, submits that respondent No.1/claimant was a young boy of 30 years and on account of injuries sustained in the accident in question including the permanent disability which was assessed at 75% by doctor, no interference was warranted in the impugned award and the same thus deserved to be maintained.

I have heard learned counsel for the parties and perused the

material placed on record.

PW4 Dr. Jitender Sharma by way of the disability certificate Ex.PW4/A proved the disability to the extent of 75% on account of amputation of the right leg below the knee of respondent No.1/claimant. The submission made by the learned counsel for the appellant insurance company that permanent disability should have been assessed not more than 35% deserves to be rejected. It is not disputed by the learned counsel for the appellant insurance company that respondent No.1/claimant was a labourer as his income too was assessed as per the minimum wages applicable to a labourer for the relevant period. In the circumstances and more particularly when respondent No.1/claimant was admittedly a labourer the permanent disability which he suffered on account of the accident in question would definitely come in his way of earning his livelihood. Still further, on account of his permanent disability he deserves to be compensated for the future loss of income which has rightly been assessed by the Tribunal.

As a sequel to the above, finding no merit in the appeal, the same is hereby dismissed.

10.05.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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