

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

**FAO-3376-2005 (O&M)
Date of decision : 25.08.2022**

Surinder Singh

... Appellant(s)

Versus

Jagmal Singh & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.S. Adlakha, Advocate for the appellant.

Mr. Ashwani Talwar, Advocate and
Mr. Sahej Mahajan, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

Challenge in the present appeal is to the award dated 03.03.2005 passed by the Tribunal whereby compensation to the tune of Rs.2,85,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realization, has been awarded to the appellant on account of injuries received by the appellant in a motor accident which took place on 12.11.2000.

Learned counsel for the appellant would contend that the appellant in the present case was a driver and was earning an amount of Rs.3,300/- per month. Learned counsel for the appellant would further contend that the appellant has suffered functional disability of 75%, however, loss of earning capacity is to the extent of 100% since he was a driver and cannot now drive. Learned counsel for the appellant would contend that no amount has been awarded on account of pain and suffering.

Per contra, learned counsel for respondent No.3-Insurance Company has contended that there is no evidence on the record to show that the appellant was a driver in the present case. It is further the contention that the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 (in short the ‘Act’) and the compensation awarded is as per the structure formula given in the Second Schedule of the Act and there is no scope for any enhancement.

Heard.

In the present case the appellant has suffered injuries as a result of an accident which took place on 12.11.2000. The Tribunal, taking the disability as 75%, applied a multiplier of ‘15’ and awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.2000/-
2	Annual income of the deceased	Rs.24000/- (2000x12)
3	Multiplier 15	Rs.3,60,000/- (24000x15)
4	Compensation as per 75% disability	Rs.2,70,000/- (360000-90000)
5	Medical	Rs.15000/-
6	Total compensation	Rs.2,85,000/-
	Interest	9% per annum

In the present case the appellant, who had stepped into witness box, had categorically stated that he was the driver of the truck owned by respondent No.2 herein and that he was having a valid Driving Licence. A perusal of the cross-examination reveals that not a single suggestion has been put to the appellant that he was not a driver by profession. Keeping in

view the fact that the statement of the appellant that he was working as a driver has gone totally un-controverted, I deem it appropriate to assess the income of the appellant as Rs.3,300/- per month. The appellant, in the present case, has suffered 75% disability. However, loss of income would be to the extent of 100% inasmuch as he is not in a position to now continue with his profession of a driver. As per the Second Schedule of the Act, in case of permanent total disablement, the amount has to be arrived at by multiplying the annual loss of income by the multiplier applicable to the age of the victim. Therefore, multiplier applicable in the present case would be ‘15’ and loss of income would be Rs.39,600/-. As per Second Schedule of the Act, the appellant is also entitled to an amount of Rs.5,000/- on account of pain and suffering. Accordingly, the modified compensation is re-worked out as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.3300/-
2	Annual income of the deceased	Rs.39600/- (3300x12)
3	Multiplier 15	Rs.594000/- (39600x15)
4	Medical	Rs.15000/-
5	Pain and Suffering	Rs.5000/-
6	Total compensation	Rs.614000/-
	Amount Awarded by the Tribunal	Rs.285000/-
	Enhanced amount	Rs.329000/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% from the date of the filing of the claim petition till the realization of the entire amount.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

25.08.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO