

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

FAO-3326-2010 (O&M)
Decided on : 27.04.2022

Bijender

..... Appellant

Versus

Sewa Singh and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. V.S.Punia, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. Lalit Garg, Advocate
for respondent No.3.

Manjari Nehru Kaul, J.(Oral)

There is an application under Section 5 of Limitation Act for condonation of delay of 109 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 109 days in filing the appeal is condoned.

FAO-3326-2010

Instant appeal has been preferred by the injured appellant to impugn the award dated 02.09.2009 passed by Motor Accidents Claims Tribunal, Jind (hereinafter called as 'the Tribunal') wherein the following compensation was assessed and awarded to him on account of injuries received in an accident on 06.11.2007:-

Sr. No.	Head	Amount
1.	Medical expenses	Rs.16,000/-
2.	Pain and suffering	Rs.50,000/-
3.	Permanent Disability	Rs.1,50,000/-
4.	Loss of income	Rs.36,000/-
5.	Nutritious diet	Rs.18,000/-
6.	Attendant charges	Rs.18,000/-
7.	Transport charges	Rs.16,000/-
8.	Total Compensation	Rs.3,04,000/-

The amount of compensation was ordered to be paid jointly and severally by respondents No.1 and 2 to the injured appellant. However, Insurance Company was granted recovery rights from respondent Nos.1 and 2 (driver and owner of the offending vehicle).

The case set up as per claim petition filed under Section 16 of the Motor Vehicle Act, 1988 (hereinafter referred to as 'the Act') by the appellant was that on 06.11.2007, he was riding a motorcycle and one Anil was pillion riding with him. At about 4.30 pm, truck bearing registration No.PB-02-AN-9807 (hereinafter called as 'the offending vehicle') being driven rashly and negligently by respondent No.1-driver namely Sewa Singh came and hit the motorcycle of the appellant, as a result of which, he and the pillion rider fell down. The offending vehicle after hitting the appellant, ran over the appellant and his motorcycle. The appellant suffered serious and multiple injuries on account of the rash and negligent driving of respondent No.1. The accident was witnessed by one Kulwant Rai. Soon after the accident in question, respondent No.1 after leaving the offending vehicle at the spot fled away. The appellant was treated at PGIMS, Rohtak. FIR No.228 dated 07.11.2007 was registered against the driver of the

offending vehicle on the statement of eye-witness Kulwant Rai. It was claimed that the appellant was 20 years old on the date of occurrence and was working in a private firm namely M/s Mitaso Sheller, Narwana . Besides this, he was also doing dairy farming and earning Rs.8,000/- per month. It was also claimed that the appellant had suffered 75% permanent disability on account of the injuries suffered in the accident in question.

On being put to notice, respondents put in appearance. Respondent No.1 and 2 and respondent No.3 in their written statements denied the factum of accident in question and stated that the accident in question had taken place due to the rash and negligent driving of the injured appellant.

Learned counsel for the appellant *inter alia* contends that though the Tribunal rightly held that the accident in question had occurred due to the rash and negligent driving of the driver of the offending vehicle, however, it erred in awarding a meagre compensation in the sum of Rs.3,04,000/-. It is submitted that it was a matter of record that the appellant had suffered 75% permanent disability in his right leg and even PW-4 Dr. Satish Kumar Verma had categorically deposed during his evidence that the disability would not improve with the passage of time. However, the Tribunal had gravely erred in awarding a meagre sum of just Rs.1,50,000/-qua the permanent disability suffered by him in his right leg. He further submits that even under the other heads including loss of marriage prospects etc., the compensation requires to be reassessed and granted keeping in view that the appellant was a young boy of 20 years of age at the time of accident in question and the whole life ahead was staring

at him.

On the other hand, learned counsel appearing for the insurance company submits that the impugned award does not warrant any interference as it is adequate and just. He further submits that the Tribunal has erred in fastening the liability on the company without appreciating that the offending truck was plying without a route permit and thus, there had been violation of the insurance policy.

After hearing learned counsel for the parties and perusing the relevant material on record, the compensation awarded by the Tribunal requires to be reassessed. It goes without saying that the Courts have to adopt a compassionate approach while awarding compensation in injury cases particularly when the injured-claimant has suffered permanent disability. The injuries, sustained by the injured without a doubt, leave mental and physical scars upon him, which cannot be erased even with the passage of time. The Hon'ble Supreme Court in ***Pappu Deo Yadav vs. Naresh Kumar, AIR 2020 SC 4424*** has held as under:

“22. In parting, it needs to be underlined that Courts should be mindful that a serious injury not only permanently imposes physical limitations and disabilities but too often inflicts deep mental and emotional scars upon the victim. The attendant trauma of the victim’s having to live in a world entirely different from the one she or he is born into, as an invalid, and with degrees of dependence on others, robbed of complete personal choice or autonomy, should forever be in the judge’s mind, whenever tasked to adjudge compensation claims. Severe limitations inflicted due to such injuries undermine the dignity (which is now

recognized as an intrinsic component of the right to life under Article 21) of the individual, thus depriving the person of the essence of the right to a wholesome life which she or he had lived, hitherto. From the world of the able bodied, the victim is thrust into the world of the disabled, itself most discomfiting and 29 First Schedule, Finance Act, 2011.”

Adverting to the case in hand, the injured was 20 years of age at the time of accident and admittedly suffered 75% permanent disability, which as per the deposition of the doctor would not improve with the passage of time. Thus, while assessing the quantum of compensation payable to the appellant, this Court cannot turn a blind eye towards the loss of marriage prospects, but also would have to take into consideration the future medical expenses, which in all likelihood would be incurred by the injured appellant.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

Sr. No.	Head	Amount
1.	Medical expenses	Rs.16,000/-
2.	Pain and suffering	Rs.1,50,000/-
3.	Permanent disability	Rs.3,00,000/-
4.	Loss of income	Rs.60,000/-
5.	Nutritious diet	Rs.25,000/-
6.	Attendant charges	Rs.25,000/-
7.	Transportation charges	Rs.20,000/-
8.	Loss of marriage prospects	Rs.3,00,000/-
9.	Future medical expenses	Rs.1,50,000/-
10	Total compensation	Rs.10,46,000/-

The appellant-claimant is, therefore, entitled to a total compensation of Rs.10,46,000/- along with interest at the rate of 8% per

annum from the date of filing of the claim petition till its actual realization which shall be jointly and severally paid in the same ratio as directed by the learned Tribunal. Recovery rights of insurance company would remain intact.

With the above modifications, the instant appeal stands disposed of.

(MANJARI NEHRU KAUL)
JUDGE

27.04.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No