

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

FAO No.152 of 2013 (O&M)

Reserved on : 14.07.2022

Date of decision: 27.09.2022

Baljit Singh

....Appellant

Versus

Bhanwar Lal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sumit Gupta, Advocate
for the appellant.

Mr. Sanjeev Kodan, Advocate
for respondent No.3.

ARVIND SINGH SANGWAN J. (Oral)

Challenge in this case is to the award dated 04.06.2012, passed by the Motor Accident Claims Tribunal, Sonapat (in short 'the Tribunal') and to enhance the amount of compensation awarded by the Tribunal.

Brief facts of the case are that the appellant – Baljit Singh along with his father Surajmal, was travelling on his motorcycle on 25.05.2009. The motorcycle was driven by the father of the appellant, who was sitting as a pillion rider. In the meantime, a truck/trolla driven by respondent No.1 came in a rash and negligent manner and hit their motorcycle from the back side due to which, they fell down and the truck crushed the left leg of the appellant. The appellant was taken to PGIMER, Chandigarh where his left leg was amputated above the knee level and has lost the prospects of marriage and has also suffered huge

amount on medical treatment and he even lost the prospect of getting a good job.

The case was contested by respondents No.1 and 2 on the ground that the vehicle is not involved whereas the insurance company/respondent No.3 took up a plea that respondent No.1 was not holding a valid and effective driving licence. The Tribunal on Issue No.1, recorded a finding that the accident, in question was caused due to rash and negligent driving of respondent No.1, against whom an FIR was registered. The Tribunal believed the version of PW-1 and PW-3, regarding the factum of accident and noticed the fact that the respondents have not led any evidence to the contrary to deny the factum of accident by the rash and negligent driving of respondent No.1.

On Issue No.2, while assessing the compensation, the Tribunal held that the appellant was aged about 20 years and as per the Medical Board, the disability of the appellant is 60% and by taking the income as Rs.2,000/- per month, the total compensation comes to Rs.2,59,200/- plus Rs.21,442/- towards the medical bills and Rs.9,358/- towards the transportation charges i.e. a total sum of Rs.2.90 lacs along with 7.5% interest.

It is argued on behalf of the appellant that the Tribunal has not assessed the just and fair compensation. Counsel for the appellant has further submitted that the Tribunal has not awarded any specific amount towards special diet, attendant charges, medical expenses from different hospital *qua* which the evidence was led to the extent of

Rs.40,000/- and further submitted that only a meagre amount of compensation is awarded towards the pain and suffering whereas, it should have been minimum Rs.3.00 lacs and even for the medical expenses/bills, the amount has been awarded on a lower side.

Counsel for the appellant has also contended that even with regard to assessibility of the income, the Tribunal should have increased 30% of the total income towards the future loss of earnings.

Counsel for the appellant has relied upon the judgment of the Hon'ble Supreme Court in "***Navjot Singh vs Harpreet Singh and others***", 2020(3) RCR (Civil) 216, wherein in case of amputation of leg, the claimant, who was 21 years of age, was awarded a total compensation of Rs.20.00 lacs.

Counsel for the appellant has also relied upon another judgment of the Hon'ble Supreme Court in "***Sri Kumaresh vs The Divisional Manager, National Insurance Co. Ltd. and another***", 2011(2) RCR (Civil) 913, where a victim, aged about 20 years, whose leg was amputated was awarded Rs.3.00 lacs, towards loss of amenities and enjoyment of life and the amount of compensation was substantially enhanced.

Counsel for the appellant has, thus, submitted that as per the marksheet, Ex.PX, it is proved that the appellant, at the time of accident, was a brilliant student and therefore, the compensation has not been properly assessed by the Tribunal.

Counsel for respondent No.3/Insurance Company has argued that the Tribunal has rightly awarded the compensation and

therefore, the scope of enhancement is only towards the heads like special diet, attendant charges and marriage prospects where the amount of only Rs.2.00 lacs can be enhanced.

After hearing the counsel for the parties and in view of the judgment passed by the Hon’ble Supreme Court in *Navjot Singh’s case (supra)*, this Court find merit in the present appeal and the same is accordingly allowed and the compensation awarded by the Tribunal, is enhanced, in the following manner:-

Sr. No.	Heads	Amount (in Rs.)
1.	Notional Income	2,000/- per month
2.	40% increase towards future prospects (2,000/- x 40%)	800/-
3.	Annual Income (2,000/- + 800/- = 2,800/- x 12)	33,600/-
4.	Income after applying multiplier of 18 (33,600/- x 18)	6,04,800/-
5.	40% of the total income assessed towards loss of future earnings (6,04,800/- x 40% = 2,41,920/-)	(6,04,800/- + 2,41,920/-) = 8,46,720/-
6.	Medical Bills/treatment charges	21,442/-
7.	Pain and sufferings and mental agony	1,00,000/-
8.	Loss of marriage prospects	2,00,000/-
9.	Hospital charges	50,000/-
10.	Attendant charges	20,000/-
	TOTAL	12,38,162/-

With the aforesaid modification, the present appeal is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

27.09.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No