

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

FAO-2175-2016 (O&M)
Decided on : 12.07.2022

Subhash Chand @ Subhash Chander

..... Appellant

Versus

Himachal Road Transport Corporation and ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vipul Sharma, Advocate
 for the appellant.

 Mr. Ravinder Arora, Advocate
 for respondents No.1 and 2.

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

Manjari Nehru Kaul, J.(Oral)

CM-8034-CII-2016

Application is allowed as prayed for and the delay of 32 days in
refiling the appeal is condoned.

Main case

Instant appeal has been preferred by the appellant-claimant
seeking enhancement of the compensation awarded by Motor Accident Claims
Tribunal, Panchkula (hereinafter called as 'the Tribunal') in the claim petition
under Section 166 of Motor Vehicles Act wherein the following compensation
was assessed and awarded to the appellant on account of injuries sustained by
him in a motor vehicular accident on 01.10.2013:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Suffering of permanent disability	Rs.1,00,000/-
2	Medical bills	Rs.3,80,407/-
3	Hospitalisation, suffering of pain, transportation and special diet	Rs.50,000/-
	Total compensation	Rs.5,30,407/-

The amount of compensation along with interest @ 6% p.a. was ordered to be paid jointly and severally by respondents No.1 and 3.

Learned counsel for the appellant-claimant submits that the injured was 49 years of age and employed as a machine operator with Hindustan Machine Tools, Pinjore (for short 'HMT') getting a salary of Rs.32,000/- per month. While the appellant was going on his motorcycle from Kalka to Pinjore, the offending vehicle came in a rash and negligent manner and collided with his motorcycle, as a result of which, he suffered multiple injuries including three fractures on his right leg, below the knee. He remained hospitalised in PGI Chandigarh where he was operated upon. Thereafter, he was treated at Alchemist Hospital, Panchkula and again he was admitted in PGI Chandigarh for further treatment as a result of which he incurred a huge expenditure in the sum of Rs.7,50,000/-. Learned counsel submits that it was a matter of record that on account of the injuries suffered, the appellant had suffered permanent disability to the extent of 20% in his right leg which had shortened by a couple of inches. Learned counsel submits that since the appellant was a machine operator, the permanent disability suffered had adversely affected his earning capacity and quality of life. Not only this, during his treatment, he had to utilize 147 days of his earned leave for which he should have been compensated as he would have otherwise been entitled for

encashment at the time of his retirement. Learned counsel further submits that the Tribunal failed to grant compensation to the appellant qua future medical expenses, which in all likelihood, he would definitely be incurring qua his permanent disability, with the passage of time. A prayer has, therefore, been made that since the compensation awarded was grossly inadequate, it required to be reassessed and modified accordingly.

Per contra learned counsel for the respondents while opposing the prayer and submissions made by counsel opposite submit that the impugned award could not by any stretch of imagination be said to be on the lower side. Learned counsel submit that the Tribunal had taken care of not only the expenses incurred during the appellant's treatment in various hospitals but it had also awarded Rs.1 lakh on account of permanent disability suffered by him. A prayer was, thus, made for dismissal of the appeal.

Heard learned counsel for the parties and perused the case file.

This Court concurs with the submissions made by learned counsel for the appellant that the compensation awarded requires to be reassessed and modified. Admittedly, the appellant was working as a machine operator with HMT, Pinjore and on account of the permanent disability suffered by him on his right leg, it would without a doubt adversely affect his earning capacity and would come in his way while carrying out his functions as a machine operator. This Court is of the opinion that the appellant-injured should have been awarded some compensation with respect to the future medical expenses, which in all likelihood he would have to incur with the passage of time. This Court is, therefore, of the opinion that the appellant deserves to be compensated with a sum of Rs.1 lakh for the same.

Coming to the next contention that during his treatment, the

appellant had exhausted 147 days of his earned leave, which otherwise, he would have encashed at the time of his retirement deserves to be accepted. The appellant stands entitled to be compensated in the sum of Rs.1 lakh in the said regard as well. On account of permanent disability suffered by the appellant, the Tribunal has awarded Rs.1 lakh, which stands enhanced to a total of Rs.1,50,000/-.

The compensation is reassessed and modified as follows:

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Suffering of permanent disability	Rs.1,50,000/-
2	Medical bills	Rs.3,80,407/-
3	Hospitalisation, suffering of pain, transportation and special diet	Rs.50,000/-
4	Compensation in lieu of earned leaves	Rs.1,00,000/-
5	Future medical expenses	Rs.1,00,000/-
	Total compensation	Rs.7,80,407/-

The appellant-claimant is entitled to afore-detailed enhanced compensation of Rs.2,50,000/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its actual realization.

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

12.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No