

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

FAO-2787-2016 (O&M)
Decided on : 27.07.2022

Harbans Lal

..... Appellant

Versus

Ganga Singh and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Kotla, Advocate
 for the appellant.

None for respondent No.1.

Mr. D.K.Prajapati, Advocate
for the Insurance Company.

Manjari Nehru Kaul, J.(Oral)

The injured-claimant is impugning the award dated 06.11.2015 passed by Motor Accident Claims Tribunal, Fatehabad (hereinafter called as 'the Tribunal') in a 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 30.07.2014:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Pain and suffering	Rs.20,000/-
2	Permanent disability	Rs.32,000/-
3	Medical expenses	Rs.1,40,000/-
4	Loss of amenities and enjoyment of life and future income etc.	Rs.40,000/-
5	Transportation charges	Rs.10,000/-
6	Special diet and attendant charges	Rs.8,000/-
	Total compensation	Rs.2,50,000/-

The amount of compensation along with interest @ 7.5% p.a. was ordered to be paid jointly and severally by the respondents from the date of filing of petition till its realization.

Learned counsel for the injured-claimant submits that on account of the injuries sustained in the accident in question, the appellant, aged 50 years, remained admitted in various hospitals. He suffered disability to the extent of 16% on account of restricted movement of his left shoulder joint. The disability was assessed to be permanent in nature by the doctor and duly proved vide Ex.P80. Learned counsel while drawing the attention of this Court to the compensation awarded submits that while awarding the compensation the Tribunal failed to appreciate that the injured, who was a mechanic, had been inadequately compensated inasmuch as neither any compensation had been awarded to him for future medical expenses nor had the permanent disability been assessed according to the multiplier system. In the instant case, the multiplier of 13 should have been applied since the injured-appellant was 50 years of age and was working as a mechanic.

Per contra, learned counsel for the insurance company while opposing the prayer of the counsel opposite submits that the appellant had been adequately compensated and the compensation awarded could not be said to be meagre by any standards. He submits that as per the bills produced by the appellant, medical expenses in the sum of Rs.1,40,000/- had been given along with other charges.

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

This Court finds merit in the submissions made by learned counsel for the appellant qua the appellant-injured having been inadequately compensated. 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. Admittedly, the appellant Harbans Lal was 50 years of age and suffered permanent disability of his left shoulder to the extent of 16%, which would, without a doubt, adversely affect his earning capacity as a mechanic. The appellant, therefore, is entitled for compensation towards loss of future earnings. Since the appellant was a mechanic, therefore, his permanent functional disability is assessed to be 30%. The appellant did not lead any evidence with regard to his monthly income, therefore, being a semi-skilled worker, his monthly income would be taken at Rs.6,000/- per month as per the State government notification for the relevant year.

Accordingly, the compensation is reassessed and modified as follows:

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.6,000/-
2	Future prospects (25%)	Rs.1,500/-
3	Annual income (Rs.6,000 + Rs.1,500 x 12)	Rs.90,000/-
4	Multiplier	13
5	Permanent disability	30%
6	Loss of earning capacity (Rs.90,000 x 13 x 30%)	Rs.3,51,000/-
7	Medical expenses	Rs.1,40,000/-
8	For pain and suffering	Rs.20,000/-
9	Transportation charges	Rs.10,000/-
10	Special diet and attendant charges	Rs.8,000/-
11	Loss of amenities and enjoyment of life	Rs.60,000/-
	Total compensation	Rs.5,89,000/-

In the circumstances, the appellant-claimant is entitled to afore-detailed enhanced compensation of Rs.3,39,000/- (Rs.5,89,000-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 in the same terms as ordered by the Tribunal.

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

27.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

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