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

FAO No.7487 of 2014

Date of Decision : 02.09.2022

Sushil Kumar

....Appellant

VERSUS

Naresh and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deep Inder Singh Walia, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate
for respondent No.2-Insurance Company.

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the injured claimant-appellant against the award dated 24.04.2014 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as the 'Tribunal'). Since the factum of the accident is not in dispute, the facts are not being repeated for the sake of brevity. The challenge in the present appeal is only to the quantum of compensation awarded.

Learned counsel for the appellant has contended that the appellant in the present case had suffered a head injury as a result of the accident and as per the disability certificate Ex.P230, it is stated that his IQ (Intelligence Quotient) was 40 and he was permanently disabled to the extent of 75%. Learned counsel has further relied upon the statement of Suresh Kumar, Deputy Chief Medical Officer, General Hospital, Hisar, who stepped into the witness box as PW-7, wherein it was stated that the injured had been permanently disabled to the extent of 75% in relation to his low IQ

(Intelligence Quotient). It was further stated that patients having such type of disability cannot work except under the supervision of someone. Nothing could be elicited from the said witness in the cross-examination. Learned counsel for the claimant-appellant would thus contend that the functional disability of the claimant-appellant would actually be 100% inasmuch as due to low IQ (Intelligence Quotient) he cannot now function without assistance of someone. Learned counsel has further contended that while computing the compensation, loss of salary has been taken as 75% of Rs.14387/-, however, keeping in mind the condition of the claimant-appellant, it ought to have been treated as 100% loss of salary. It is further the contention that future prospects ought to have been granted @ 25%. Learned counsel has further argued that the amounts awarded under the Heads pain and suffering, mental shock and agony, special diet and attendant charges are also on the lower side.

Per contra, learned counsel appearing on behalf of the respondent No.2-Insurance Company has contended that adequate compensation has been awarded and there is no scope of any enhancement.

Heard.

In the present case, it has come in evidence that the claimant-appellant had suffered a head injury and remained admitted in hospital from 20.06.2012 to 24.07.2012. As per the disability certificate, the appellant is stated to be 75% permanently disabled in view of the fact that his IQ (Intelligence Quotient) is now 40. However, it has come in the statement of PW-7, Dr. Suresh Kumar, that the patient with such type of disability cannot work except under supervision of someone. The learned counsel for the respondent No.2-Insurance Company has not been able to show any

evidence to dispute the fact that the claimant-appellant cannot now function without the assistance of someone else. That being so, the disability in the present case would have to be treated as 100%.

The Supreme Court in the case of **Abhimanyu Partap Singh Vs. Namita Sekhon & Anr. [2022 (3) RCR (Civil) 557]** had assessed the attendant charges for the injured who was totally confined to the bed as Rs.5000/- per month for whole life, calculating the compensation applying the multiplier of 18.

Keeping in view the judgment of the Supreme Court in the case of **Abhimanyu Partap Singh (supra)**, I deem it appropriate to grant an amount of Rs.3000/- per month to the claimant-appellant as attendant charges. The said compensation would be calculated applying a multiplier of 14, keeping in view the age of the appellant. Further, keeping in view the disability suffered by the claimant-appellant as a result of the accident, I find the amount of Rs.10,000/- awarded under the head of pain and suffering, mental shock and agony to be highly inadequate. Accordingly, the said amount is enhanced to Rs.5,00,000/-. The amount of Rs.10,000/- under the Head of special diet is also inadequate and the same stands enhanced to Rs.25,000/-. Accordingly, the compensation is re-worked out as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.14387/-
2	Annual income of the deceased	Rs.172644 (14387x12)
3	Addition of 25% on account of future prospects	Rs.215805/- (172644+43161)
5	Multiplier of 14	Rs.3021270/- (215805x14)
6	Attendant Charges	Rs.504000/- (3000x12x14)
7	Pain and Suffering	Rs.500000/-

8	Medical Expenses	Rs.294000/-
10	Special Diet	Rs.25000/-
11	Transportation Expenses	Rs.3000/-
12	Grand Total	Rs. 4347270/-
	Difference of compensation	Rs.22,12,550/- (4347270-2134720)

The enhanced amount of **Rs.2212550/-** over and above the amount already awarded by the Tribunal shall carry interest @ 7.5% per annum from the date of filing of the claim petition till realization. Out of the enhanced amount, 25% of the enhanced amount shall be paid to the claimant-appellant. The remaining amount shall be deposited in an FDR in a Nationalized Bank fetching the maximum interest.

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

02.09.2022
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(ALKA SARIN)
JUDGE

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