

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

**FAO No.6179 of 2017 (O&M)
Date of Decision : 03.08.2022**

Daya Ram

....Appellant

Versus

Vinod and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amarjit Beniwal, Advocate for
Mr. Harish Nain, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.2/Insurance Company.

PANKAJ JAIN, J.

Claimant is in appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988.

2. The compensation has been claimed on account of injuries suffered by the claimant in a motor-vehicular accident.

3. As per the claim petition, on 4th of December, 2015 claimant along with Madan were returning back to their house after attending marriage ceremony, riding motorcycle. The appellant was driving the same when the offending vehicle being driven by respondent No.1 struck them. Appellant Daya Ram received multiple injuries. He was taken to Government Hospital Kaithal from where he was referred to PGI,

Chandigarh.

4. On the basis of the pleading of the parties, the Tribunal framed the following issues :-

“1. Whether claimants Daya Ram (Claim petition no. 15 of 2016 – CIS No. 60 of 2016) and Madan (claim petition No. 21 of 2016 – CIS No. 121 of 2016) are entitled to compensation on account injuries suffered by them in a road side vehicular accident, which had occurred on 04.12.2015 at about 08:10 PM in the area of village Chandana, P.S. Titram, District Kaithal on account of rash and negligent driving of offending vehicle No. HR-08R-6553? OPP

2. If issue no.1 is proved, then what amount of compensation, the claimants are entitled to and from whom? OPP

3. Whether the respondent no. 1 was not holding a valid and effective Driving Licence and the offending vehicle was being driven in violation of terms and conditions of insurance policy at the time of accident? OPR-2

4. Relief.”

5. Finding on Issue No.1 is not in dispute. Thus, the scope of present appeal is primarily confined to Issue No.2 i.e. the amount of compensation to which the appellant is entitled.

6. Tribunal awarded compensation of Rs.8,75,000/- to the appellant under the following heads :-

Monthly loss of income	5,40,000/-
Loss of amenities	1,00,000/-
Medical expenses	1,95,000/-

Transportation	10,000/-
Pain and suffering	20,000/-
Special diet etc.	10,000/-
Total	8,75,000/-

7. Ld. Counsel for the appellant contends that Tribunal erred in denying future prospects to the claimant while calculating loss of income. He further submits that the loss of income has been assessed at 50% despite the fact that it has come on record that the appellant who was working as Halwai has suffered permanent disability to the extent of 85% as his right leg below the knee got amputated. Disability Certificate Exhibit PW-3/A has been proved on record by Dr. Aman Sood, who appeared as PW-3. He submits that nothing has been paid on account of loss of income for the period the petitioner remained bed ridden and was not able to attend to his avocation. Amount of Rs.20,000/- awarded under head of pain and suffering also deserves to be enhanced. Nothing has been paid for special attendant and even the amount of Rs.10,000/- paid under the head of special diet needs to be enhanced.

8. Ld. Counsel for respondent No.2 is not in a position to deny the fact that the appellant is entitled for future prospects. However, he submits that the amounts paid under the pecuniary as well as non-pecuniary heads are sufficient and the same do not need any enhancement.

9. I have heard Ld. Counsel for the parties and have gone through the records of the case.

10. Tribunal erred in assessing the income of the appellant at Rs.3,000/- per month which is the minimum wages payable to a casual labour. The appellant is proved on record to be working as Halwai. Thus, he needs to be assessed as a skilled worker and his monthly income, as per the notified minimum wages for a skilled worker on the date of accident, is taken to be Rs.9237.85/- per month. He is also entitled for future prospects of 40%. Multiplier of 15% has been rightly applied by the Tribunal. Disability has also been correctly assessed to be 50%. Medical expenses have been awarded as proved on record i.e. Rs.1,95,000/-. No fault can be found with the same. The appellant was referred from the Government Hospital, Kaithal to PGI, Chandigarh where he was operated. However, it has come on record that the appellant remained bed ridden and under treatment for around two months after his leg was amputated. Thus, he is entitled for loss of income for the said period. An amount of Rs.20,000/- is awarded as charges for special attendant. Amount awarded under the head of special diet is also enhanced from Rs.10,000/- to Rs.20,000/-. After amputation of the leg, the appellant requires artificial limb for which estimate Exhibit P27 has been placed on record. As per the same, the petitioner is required to spend Rs.1,70,000/- on the same. Appellant is awarded an amount of Rs.1,00,000/- for artificial limb. The amount awarded for pain and suffering also needs to be enhanced from Rs.20,000/-

to 50,000/-. Rest of the amounts awarded by the Tribunal are maintained.

11. With the aforesaid modification, the present appeal is allowed. The award passed by the Tribunal stands modified. The appellant will be entitled for interest @ 9% per annum on the compensation amount from the date of petition till its actual realization, as awarded by the Tribunal.

12. Needless to say that any amount already paid to the claimant/ appellant shall be set off.

13. Ordered accordingly.

August 03, 2022
Dpr

(PANKAJ JAIN)
JUDGE

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