

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

FAO No.7685 of 2017

Date of decision: 22nd August, 2022

Sharafat Ali

... Appellant

Versus

Rizwan Ali & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Akshit Aggarwal, Advocate for the appellant.

Mr. Satpal Dhamija, Advocate
for the Insurance Company/respondent No.2.

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the injured claimant to challenge the Award dated 01.08.2017 passed by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 wherein he was awarded total compensation of ₹ 16,07,300/- on account of 100% functional disability suffered by him in the motor vehicular accident that took place on 04.07.2015.

Learned counsel for the appellant has vehemently argued that in the accident in question, the appellant suffered multiple and grievous injuries all over his body including his backbone which was badly damaged. The medical board assessed his disability as 100% on account of locomotive disability qua spine and his physical disability. It

was submitted that the appellant, who was just 31 years of age on the date of accident and had been working as a driver, had been left paralyzed and had become bedridden after the accident in question. While drawing the attention of this Court to the compensation awarded, it was vehemently urged that the same was meager and grossly inadequate inasmuch as the Tribunal had failed to compensate the appellant qua his future medical expenses which, in all likelihood, would be incurred. Learned counsel further submits that since the appellant was a driver by profession, his income should have been assessed by treating him as a skilled person which however, was erroneously not done by the Tribunal. It was also submitted that the Tribunal did not award any amount towards future prospects while assessing the compensation for loss of income.

Per contra, learned counsel representing the Insurance Company has opposed the submissions made by the counsel opposite and submitted that the compensation is just and adequate and thus, does not warrant any interference.

I have heard learned counsel for the parties and perused the relevant material on record.

This Court finds force in the submissions made by learned counsel for the appellant. Vide order dated 13.03.2019, a Medical Board was constituted for reassessment of the medical condition of the appellant. Report has since been received from the PGIMER

Chandigarh, which is at flag 'B'. The Medical Board after examining the appellant, concurred with the disability report given by the medical disability board dated 21.10.2016 that the disability of the claimant was permanent in nature and would not improve with the passage of time. Therefore, in view of the above, his functional disability was also assessed to be 100%.

This Court thus, has no hesitation in observing that the injured deserves to be adequately compensated for pain and suffering, loss of amenities and also for future medical expenses, which he would in all likelihood be incurring with the passage of time. Besides this, the claimant also deserves to be compensated for attendant charges. This Court, however is not inclined to enhance the monthly income which has been assessed at the rate of ₹ 7,000/- per month by the Tribunal, as the claimant did not lead any cogent evidence in support of his profession and income. Resultantly, compensation awarded is re-assessed and modified as under:

Sr. No.	Head	Amount
1.	Monthly income	₹ 7,000/-
2.	Future prospects @ 40 %	₹ 2,800/-
3.	Annual income 7,000 + 2,800 x 12	₹ 1,17,600/-
4.	Permanent functional disability	100%
5.	Multiplier	16
6.	Total loss of future earnings	₹ 18,81,600
7.	Medical expenses (actually incurred)	₹ 1,23,300/-
8.	Future medical expenses	₹ 4,00,000/-
9.	Pain and suffering and loss of amenities	₹ 10,00,000/-

10.	Attendant charges	₹ 3,00,000/-
	Total compensation	₹ 37,04,900/-

The enhanced amount of compensation shall carry interest @ 8% per annum from the date of filing of petition till its realization. The amount, if any, already paid by the respondents to the injured would stand deducted from the enhanced compensation.

With these modifications, the present appeal stands disposed off.

(MANJARI NEHRU KAUL)
JUDGE

August 22, 2022
rps

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