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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.8696 of 2017 (O&M)
Date of Decision: 21.11.2022

Avtar Singh

..... Appellant

Versus

Jassa Singh and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Ekta Thakur, Advocate and
Ms. Rekha Luhach, Advocate
for the appellant.

Mr. Arihant Goyal, Advocate
for respondents No.1 and 2.

Mr. Paul S. Saini, Advocate and
Ms. Tarranum Madan, Advocate
for respondent No.3.

MANJARI NEHRU KAUL J. (Oral)

The appellant-claimant is in appeal before this Court to impugn the award passed by the Motor Accident Claims Tribunal, SAS Nagar (Mohali), wherein the following compensation was granted to him on account of the injury sustained by him in a motor vehicular accident, which took place on 22.05.2016.

	INJURY CASE	
Sr. No.	Head	Amount
1	Expenditure of ailment (medical expenses)	Rs.1,39,386/-
2	Pain and sufferings	Rs.20,000/-
3	Loss of amenities of life	Rs.20,000/-

4	Transportation charges	Rs.10,000/-
5	Attendant expenses	Rs.10,000/-
6	Income loss due to disability	Rs.1,71,072/-
7	Total	Rs.3,70,458/-

The respondents were held jointly and severally liable to pay the amount of compensation to the appellant-claimant (hereinafter referred to as 'the claimant'). The claimant was held entitled to interest at the rate of 6% per annum if the payment was made by the respondents within two months from the date of award, failing which, the claimant would be entitled to interest at the rate of 9% per annum. The interest was payable from the date of filing of the claim petition till the actual date of realization.

As per the pleaded case, the claimant, who was a student of B.A. 1st year and just 20 years of age, was going to his college on his motor cycle. On the way, the offending vehicle bearing registration No.PB03-AF-7505 came in a rash and negligent manner from the opposite side and hit the motor cycle of the claimant. On account of the collision, the claimant fell down on the road and sustained multiple injuries on various parts of the body including his right eye.

Learned counsel for the claimant submits that the Tribunal while passing the impugned award failed to take note of the nature of injuries received by the claimant. Learned counsel further submits that as per the disability certificate and the deposition of PW-2, Dr. Swati Sharma, the claimant had suffered permanent disability to the extent of 30%, i.e., loss of vision of his right eye. However, the Tribunal had erroneously assessed the functional disability of the claimant only to the

extent of 10%.

Learned counsel still further submits that the claimant was aspiring to join the armed forces, however, all his hopes and dreams had been dashed to the ground on account of the aforementioned loss of vision of his right eye, to the extent of 30%. Learned counsel has urged that the claimant should have been treated as a skilled worker, since he was a student of B.A. and awarded compensation for loss of future earnings accordingly. He further prayed that even the compensation under other heads of special diet, marriage prospects, pain and suffering was inadequate and accordingly, required to be re-assessed and modified.

Per contra, learned counsel appearing for the Insurance Company has opposed the prayer and submissions made by the counsel opposite and submitted that the injured-claimant had been adequately compensated under almost all the heads and hence, the impugned award did not warrant any interference. It was also submitted that no evidence had been led by the injured-claimant in support of his pleaded case that he was planning to join the armed forces. A prayer was therefore, made for dismissal of the instant appeal.

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

This Court finds merit in the submissions made by learned counsel for the appellant-claimant that the compensation awarded is inadequate and thus, requires to be re-assessed and modified accordingly.

The claimant was 20 years of age on the date of accident in question. It is a matter of record that he suffered permanent loss of vision

to his right eye, to the extent of 30%. Needless to say, that the loss of vision would always come in the way of the injured-claimant while applying for various jobs including the armed forces, and still further even his ordinary pursuits of life would be affected. Hence, keeping in view the nature of the permanent disability suffered by the injured-claimant and its effect, the functional disability needs to be re-assessed at 30%.

This Court is of the opinion that the future earning capacity of the injured-claimant would definitely reduce due to the permanent disability suffered by him. Therefore, the claimant would be entitled to be compensated for loss of future earnings. Further, the claimant was a student of B.A. 1st year on the date of accident in question, hence, this Court deems it appropriate to treat him as a skilled worker and take the minimum wages, i.e., Rs.8888/- per month as notified by the State Government for the relevant period. While assessing the loss of his future earnings, the claimant would also be entitled to an addition of 40% towards future prospects to his income as has also been held by Hon'ble the Supreme Court in “*Sidram vs. Divisional Manager, United India Insurance Co. Ltd*”, CA No.8510 of 2022.

Still further, this Court is of the considered opinion that the injured-claimant being a young boy of 20 years requires to be compensated for loss of marriage prospects. The Tribunal has erred in not granting any compensation to the injured-claimant *qua* the medical expenses, which in all likelihood could be incurred by him in the future. This Court, therefore, on the basis of the evidence and other material led, re-assesses and modifies the compensation awarded as follows:

S. No.	Heads		Amount
1	Loss of future income due to permanent disability	Monthly income	8888
		Annual income	8888 X 12 = Rs.1,06,656/-
		Future prospects 40%	1,06,656/100 X 40 = Rs.42,662/-
		Total income including future prospects	1,06,656+42,662 = Rs.1,49,318/-
		Multiplier	18
		Income after multiplier	1,49,318 X 18 = Rs.26,87,724/-
		Functional disability	30%
		Total loss of future earnings	26,87,724X30% = Rs.8,06,317/-
2	Medical Expenses		Rs.1,39,386/-
3	Pain and Sufferings		Rs.40,000/-
4	Special Diet		Rs.10,000/-
5	Loss of amenities of life		Rs.40,000/-
6	Transportation expenses		Rs.10,000/-
7	Future Medical expenses		Rs.50,000/-
8	Loss of Marriage prospects		Rs.50,000/-
	Total		Rs.11,45,703/-

The claimant is, therefore, held entitled to a total sum of **Rs.11,45,703/-** as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents No.1 to 3 jointly and severally.

Accordingly, the present appeal stands disposed of in the above terms.

(MANJARI NEHRU KAUL)
JUDGE

21.11.2022
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Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No