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

**FAO No.7460 of 2018 (O&M)**
**Date of decision: 23.11.2022**

**United India Insurance Company Limited**
**..... Appellant**

**versus**

**Rakesh and another**
**..... Respondents**

**FAO No.1888 of 2022 (O&M)**

**Rakesh**
**..... Appellant**

**versus**

**Sunil Kumar and another**
**..... Respondents**

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Ashwani Talwar, Advocate
for the appellant in FAO No.7460 of 2018 and
for respondent No.2 in FAO No.1888 of 2022.

Mr. Balraj Gujjar, Advocate
for the appellant in FAO No.1888 of 2022 and
for respondent No.1 in FAO No.7460 of 2018.

Mr. Mahinder Singh Chahal, Advocate
for respondent No.2 in FAO No.7460 of 2018 and
for respondent No.1 in FAO No.1888 of 2022.

**MANJARI NEHRU KAUL J. (Oral)**

Both the appeals are being disposed of together as they pertain to the same accident and arise out of the same award.

The instant appeals have been filed by the Insurance Company and the injured-claimant to impugn the award dated 17.08.2018 passed by the Motor Accident Claims Tribunal, Bhiwani, wherein the following compensation was awarded to the injured-claimant on account of the injuries suffered by him in a motor vehicular accident which took place on 14.02.2017.

| Sr. No. | Heads | Calculations |
|---|---|---|
| 1 | Income | Rs.8000/- per month |
| 2 | Annual Income | 8000 X 12 = Rs.96,000/- |
| 3 | Permanent disability to the extent of 19% | Rs.18,240/- (96000/100X19) |
| 4 | Multiplier (17) | 18240 X 17 = Rs.3,10,080/- rounded up to Rs.3,10,000/- |
| 5 | Loss of income | Rs.16,000/- |
| 6 | Pain and suffering | Rs.10,000/- |
| 7 | Treatment expenses | Rs.7,260/- |
| 8 | Special diet, attendant charges and conveyance charges | Rs.10,000/- |
| | **Total Compensation** | **Rs.3,53,340/- rounded up to Rs.3,53,000/-** |

The respondents were held jointly and severally liable to pay the compensation of Rs.3,53,000/- to the injured-claimant, along with interest @ 9% per annum, from the date of filing of the claim petition till its realization.

As per the pleaded case of the injured-claimant, on 14.02.2017, injured Rakesh was plying his Rehri along with two others, Sandeep and Mukesh and when they were returning from the Sabzi Mandi, a Pick Up vehicle bearing registration No.HR56A-6100 (hereinafter referred to as 'the offending vehicle') came from behind in a rash and negligent manner, driven by respondent No.2 and hit the Rehri of the injured-claimant. The injured-claimant and the two persons accompanying him on the Rehri fell down on the road and sustained injuries on various parts of his body. Registration number of the offending vehicle was noted and soon thereafter, FIR No.101, dated 23.02.2017, under Sections 279/337/338 IPC at police station City, District Bhiwani was registered against respondent No.2. After the accident in question, the injured-claimant was admitted in General Hospital, Bhiwani, where he underwent a surgery on his foot. On account of the injuries received, the injured-claimant lost his big toe and two middle toes of his right foot.

Learned counsel for the Insurance Company has vehemently argued that the offending vehicle was not involved in the accident in question and had been planted just to extract compensation. It was also submitted that the delay in lodging of the FIR further lent credence to the offending vehicle not being responsible for the accident in question. It was urged that even assuming for the sake of arguments that the accident in question had taken place with the offending vehicle, since it was the admitted case of the injured-claimant himself that he was plying the Rehri and two others were sitting thereon, it could be safely concluded that it was at best a case of contributory negligence. Hence the liability ought to have been apportioned accordingly. It was also further urged by learned counsel for the Insurance Company that the quantum of compensation awarded to the injured-claimant was also exorbitant and required to be re-assessed and scaled down accordingly.

*Per contra*, learned counsel appearing for the injured-claimant has opposed the submissions and prayer made by the counsel opposite by urging that the injured-claimant was 28 years old vegetable seller, who was earning about Rs.20,000/- per month. On account of the accident in question, he had to be hospitalized for almost 3 weeks, during which time, he not only underwent a surgery on his foot but he suffered permanent disability to the extent of 19% as he lost three of his toes. It was further submitted that the Tribunal had erred in awarding inadequate compensation to the injured-claimant as no compensation had been awarded with respect to future prospects and even *qua* the other conventional heads like pain and suffering, loss of income, etc.

Controverting the submissions made by the counsel opposite that the offending vehicle was not involved in the accident in question, learned counsel for the injured-claimant submitted that soon after the accident in question, the injured-claimant was removed to the hospital with alleged history of road side accident. Not only this, a medical *Ruqa* was dispatched by the doctor to the police, who thereafter reached the hospital and recorded the statement of injured-claimant. It was submitted that in these circumstances, no suspicion could be raised *qua* the false implication of the offending vehicle in the accident in question, more so, when in the FIR, the particulars of the offending vehicle were categorically mentioned.

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

This Court does not find any merit in the submissions made by learned counsel for the Insurance Company *qua* the involvement of the offending vehicle in the accident in question being suspect. Not only this, the injured-claimant while stepping into the witness box, gave a vivid account of the manner in which the offending vehicle came and struck against his Rehri. Even the factum of the injured-claimant having sustained injuries in the accident in question, finds due corroboration from the fact that he was immediately admitted in the hospital soon after the accident in question and a medical *Ruqa* too was sent to the police.

This Court finds merit in the submissions made by learned counsel for the injured-claimant that the injured-claimant deserves to be compensated with respect to future prospects which erroneously was not granted by the Tribunal while passing the award. Since the injured-claimant was 28 years of age, he shall stand entitled to future prospects to the extent of 40% as per the settled ratio of law laid down by Hon'ble the Supreme Court in "***National Insurance Company Limited v. Pranay Sethi and others***"; **2017 (4) RCR (Civil) 1009** and "***Sidram vs. Divisional Manager, United India Insurance Co. Ltd***", **CA No.8510 of 2022**. The minimum wages prescribed by the State Government for the relevant period in respect of an unskilled worker were Rs.8200/- per month and hence, the monthly income of the injured-claimant would stand enhanced from Rs.8000/- to Rs.8200/-.

The compensation, thus payable to the injured-claimant is reassessed as follows:-

<table>
<tr><th>S. No.</th><th colspan="2">Heads</th><th>Amount</th></tr>
<tr><td rowspan="5">1</td><td rowspan="5">Loss of future income due to permanent disability</td><td>Monthly income (for unskilled worker</td><td>Rs.8200/-</td></tr>
<tr><td>Annual Income</td><td>8200 X 12 = Rs.98,400/-</td></tr>
<tr><td>Addition of 40% for future prospects</td><td>98,400/100 X 40=<br>Rs.39,360/- (39,360+98,400 = Rs.1,37,760)</td></tr>
<tr><td>Multiplier</td><td>Rs.1,37,760 X 17 =<br>Rs.23,41,920/-</td></tr>
<tr><td>Functional disability to the extent of 19%</td><td>Rs.4,44,965/-<br>(23,41,920/100 X 19)</td></tr>
<tr><td>2</td><td colspan="2">Loss of income for two months</td><td>Rs.8200 X 2 = Rs.16,400/-</td></tr>
<tr><td>3</td><td colspan="2">Pain and suffering</td><td>Rs.30,000/-</td></tr>
<tr><td>4</td><td colspan="2">Treatment expenses</td><td>Rs.7,260/-</td></tr>
<tr><td>5</td><td colspan="2">Special diet, attendant charges and conveyance charges</td><td>Rs.10,000/-</td></tr>
<tr><td>6</td><td colspan="2">Loss of marriage prospects and other amenities of life etc.</td><td>Rs.50,000/-</td></tr>
<tr><td>7</td><td colspan="2">Total Compensation</td><td>Rs.5,58,625/-</td></tr>
</table>

The injured-claimant is, therefore, held entitled to a total sum of **Rs.5,58,625/-** as compensation along with interest @ 9% per annum from the date of filing of the claim petition till its actual realization, which shall be paid by the respondents jointly and severally.

With these modifications, the appeal filed by the injured-claimant stands disposed of in the above terms and the appeal filed by the Insurance Company stands dismissed.

**(MANJARI NEHRU KAUL)**
**JUDGE**

**23.11.2022**
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No