

2023:PHHC:094518

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

FAO-106-1990(O&M)
Date of decision: 26.07.2023

Duli Chand alias Dulla Ram

..Appellant

Versus

Boota Singh and another

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- None for the appellant

Mr. Neeraj Khanna, Advocate for the Insurance Company

ANIL KSHETARPAL, J (Oral)

1. Although, the learned counsel representing the appellant has not come forward to assist the Court, however, with the able assistance of the learned counsel representing the Insurance Company, this Court has gone through the paperbook.

2. This is the claimant's appeal for modification of the award passed by the Motor Accidents Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal'). In an automobile accident, the claimants suffered grievous injuries. At the relevant time, the appellant aged about 30 years was earning his livelihood by pulling Rikshaw. It has come on record in the deposition of Dr.Amar Singh, PW2, that the appellant suffered a fracture of the calcaneus and the 4th and 5th metatarsals as well as a fracture of the right tibia at two places and the fibula at its upper third, which resulted in shortening of his leg. The Tribunal, while assessing his income at Rs.800/- per month, ordered

compensation for loss of income at the rate of Rs.9600/- (800x12=9600).

Under the head of pain and suffering, he was awarded Rs.20,000/- and for future medical expenses Rs.6,000/- was awarded and an amount of Rs.2700/- was also awarded for the special diet.

3. In the grounds of appeal, it has been stated that the appellant has been advised not to pull Rikshaw for his entire life.

4. It is evident that the Tribunal has not awarded any amount for future loss of income. A Rikshaw puller, who was earning his livelihood by pulling Rikshaw, may not be possessing any other skill. On account of the shortening of his leg and grievous injuries, which have already been noticed, the claimant has lost opportunity to continue to earn his livelihood by pulling Rickshaw.

5. Keeping in view the aforesaid facts, some amount for loss of future income should have also been awarded to the claimant. The detailed evidence is not available, hence, in the facts of the case, the loss of income is assessed at Rs.20,000/-. His income was Rs.800/- per month. He will be entitled to increase on account of future prospects at the rate of 40%, apart from that the appellant also deserves to be awarded some amount towards the future medical expenses, which are an inevitable consequences of the grievous injuries suffered by the claimant. Hence, the same is assessed at Rs.30,000/-.

6. Accordingly, the award passed by the Tribunal is modified an under:-

Sr. No.	Various Heads	Amount awarded by MACT	Amount awarded by the High Court
1.	Annual Income	Rs.9600/-	Rs.9600/-
2.	Future Prospects	Nil	Rs.9600+3840= 13,440/-
3.	Future medical expenses	Rs.6000/-	Rs.30,000/-
4.	Special Diet	Rs.2700/-	Rs.2700/-
5.	Pain and suffering	Rs.20,000/-	Rs.20,000/-
6.	Future loss of income	Nil	Rs.20,000/-
	Total amount awarded	Rs.38,300/-	Rs.95,740/-

8. The enhanced amount shall be payable alongwith interest at the rate of 7.5 per cent per annum from the date of filing of the claim petition till its payment.

9. Disposed of.

10. All the pending miscellaneous applications, if any, are also disposed of.

26.07.2023
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE