

212

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

FAO-5011-2007 (O&M)
Reserved on : 09.01.2023
Date of decision : 13.01.2023

Bakshish Singh

.....Appellant

Versus

Jastar Singh and Others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anurag Chopra, Advocate for the appellant.

Mr. Punit Jain, Advocate for respondent No.3.

ALKA SARIN, J.

CM-24753-CIL-2007

This is an application for condonation of delay of 17 days in filing the appeal.

For the reasons stated in the application, delay of 17 days in filing the appeal is condoned.

CM stands disposed off.

FAO-5011-2007

The present appeal has been preferred by the injured-appellant against the award dated 26.07.2007 passed by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'Tribunal') whereby compensation to the tune of Rs.1,00,000/- had been awarded to the injured-

claimant. The factum of the accident is not in dispute and hence the facts are not being adverted to.

Learned counsel for the injured-appellant would contend that the disability suffered by the injured-appellant is to the extent of 50% permanent disability qua his left leg and that before the accident he was doing the work of agriculture and now his work would be affected due to his disability. Learned counsel for the injured-appellant would further contend that the Tribunal ought to have taken the functional disability of the injured-appellant as 50% and applied a multiplier method since his capability of working has been affected after the accident. It is further the contention of learned counsel that no future prospects had been granted as laid down by the Hon'ble Supreme Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** and that even the amounts granted under the headings of pain and sufferings and loss of amenities of life is also on the lower side.

Per contra, learned counsel for respondent No.3-Insurance Company would contend that the physical permanent disability is 50% qua left leg and hence cannot be taken as functional disability. It is further the contention of learned counsel that sufficient amounts had already been awarded to the injured-appellant.

Heard.

It has been held by the Hon'ble the Supreme Court in the cases of **Pappu Deo Yadav (supra)** and **Sandeep Khanuja Vs. Atul Dande & Anr. [2017 (1) RCR (Civil) 1017]** that where the working capability of the injured is affected due to the permanent disability, future prospects should be awarded. In the present case, the disability suffered by the injured-

appellant is 50% qua his left leg. As per the statement of Dr. Umesh Modi, Medical Officer, General Hospital, Sector-6, Panchkula, who appeared as PW-3, the injured-appellant was found to be suffering from complaints of pain, limp, stiffness of the knee, inability to squat and sit cross legged and kneel. His physical disability was assessed at 50%. As an agriculturist attending to his fields, the movement of the injured-appellant would definitely be affected. He would find it difficult to kneel and squat.

In view of the above and keeping in view the fact that there is a 50% permanent disability qua the leg, this Court deems it appropriate to assess the functional disability of the injured-appellant as 25%. Keeping in view the minimum wages prevailing in Punjab in 2005 at the time of accident, the monthly income of the injured-appellant is taken as Rs.2700/- per month. Since the age of the injured-appellant is 36 years, a multiplier of '15' is applied. Future prospects would be added @ 40%. The Tribunal had awarded only an amount of Rs.20,000/- towards pain and sufferings and no amount was awarded towards loss of amenities of life. The appellant in the present case had sustained two fractures on his left leg and knee joint besides other injuries. He remained admitted in hospital from 23.08.2005 to 04.09.2005. Surgery for applying fixator, springs and screws was conducted on the left leg and left knee joint of the injured-appellant. Thereafter, plaster was applied. Keeping in view the nature of the injuries received, this Court deems it appropriate to enhance the amount under the heading of pain and sufferings to Rs.1,50,000/- and under the heading of loss of amenities of life an amount of Rs.1,50,000/- is awarded. The amount of Rs.20,000/- awarded by the Tribunal towards transportation would remain the same.

In view of the above, the total enhanced compensation to which the claimant-appellant is entitled is re-worked as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income of the deceased	[2700 x 12] =Rs.32400/-
2	Annual Income as per 25% functional disability	Rs.8100/-
3	Future Prospects @ 40%	[8100+3240] = Rs.11,340/-
4	Multiplier of 15	[11340 x 15] = Rs.1,70,100/-
5	Loss of Amenities of life	Rs.1,50,000
6	Pain and sufferings	Rs.1,50,000
7	Transportation	Rs.20,000/-
	Total Compensation	Rs.4,70,100/-
	Amount Awarded by the Tribunal	Rs.1,00,000/-
	Enhanced amount	Rs.3,70,100/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the claim petition till the realization of the entire amount.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

13.01.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO