

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

FAO-2831-2016 (O&M)
Reserved on : 13.01.2023
Date of decision : 24.01.2023

Narender

....Appellant

Versus

Aashish and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mohit Garg, Advocate for the appellant.

Mr. Sushil Sheoran, Advocate for respondent Nos. 1 and 2.

Mr. Inderjit Sharma, Advocate for respondent No.3.

ALKA SARIN, J.

The present appeal has been preferred by the claimant-appellant for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 30.07.2015.

Since the factum of the accident is not in dispute, the facts are not being reproduced herein for the sake of brevity.

Two persons, namely, Narender, the claimant-appellant herein, and one Subhash were involved in the vehicular accident that occurred on 04.02.2013. Narender, the present claimant-appellant, received various injuries and after being given first-aid at Civil Hospital, Charkhi Dadri, he was shifted to PGIMS Rohtak and from there he was taken to Medanta Medicity, Gurgaon where he remained admitted upto 20.02.2013. It is stated

that the claimant-appellant was operated upon several times and on several parts of the body including right shoulder, right elbow, left arm, forehead and nose. Multiple surgeries were carried out for plate fixation and for providing supports to the forehead bones, right shoulder, right elbow and left arm bones. It is pleaded that prior to the accident he was running a shop in a prime location in Charkhi Dadri and was earning an amount of Rs.75,000/- per month. However, now owing to accident it had rendered him mentally and physically disabled. The medical bills were produced on the record as Ex.PW-5/1 to Ex.PW-5/15 amounting to Rs.8,15,947.68 paise. The Tribunal vide award dated 30.07.2015 awarded a lump sum compensation of Rs.10 lakhs to the claimant-appellant. Aggrieved by the compensation awarded, the present appeal has been preferred.

Learned counsel for the claimant-appellant would contend that the claimant-appellant suffered various injuries and underwent multiple operations and remained admitted in Medanta Medicity, Gurgaon for over a period of one month. The medical bills itself were amounting to Rs.8,15,947.68 paise. However, PW-2 Dr. S.S.Dhankhar, had proved the disability certificate which found that the claimant-appellant suffered from 31% disability. It is hence the contention that keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Sidram Vs. The Divisional Manager, United India Insurance Co. Ltd & Anr. [2022 SCC Online SC 1597]** future loss of income ought to have been given.

Per contra, learned counsel for the respondents have vehemently contended that there was no scope of any enhancement and already Rs.10 lakhs had been awarded as lump sum compensation.

Heard.

In the present case, as per PW-2 Dr. S.S.Dhankhar, the claimant-appellant suffered permanent disability to the extent of 31% on account of “*well united fracture shaft of humerus with head injury and having central cord syndrome due to head injury with Quadriplegia with incoordination of movement (Haemorrhagic contusion with fracture of multiple sinuses)*”. In simpler words, due to the injuries suffered the claimant-appellant had central cord syndrome which is the most common form of incomplete spinal cord injury characterized by impairment in the arms and hands and to a lesser extent in the legs. The brain’s ability to send and receive signals to and from parts of the body below the site of injury is reduced but not entirely blocked. Quadriplegia is a condition in which one has muscle weakness in all four limbs (both legs and both arms). The disability was assessed as 31%. In the present case, keeping in view the nature of injuries, 31% disability would have to be treated as functional disability. Since the claimant-appellant has suffered 31% permanent disability, a multiplier method ought to have been applied and amounts ought to have been awarded towards future prospects.

There is no evidence on the record qua the income of the claimant-appellant hence the income is assessed as per the minimum wages prevailing at that point of time i.e. Rs.6761/- per month. The medical bills have duly been proved as Ex.PW5/1 to Ex.PW5/15 to the tune of Rs.8,15,947.68 and hence the entire amount ought to have been awarded. Keeping the age of the injured in the mind, a multiplier of 13 would be applicable and keeping in view the age of the injured which is 50 years, future prospects @ 10% ought have been added. The claimant-appellant not only remained admitted in hospital for a period of about three weeks, but

also suffered grievous injuries resulting in incoordination of movement. Hence, this Court deems it appropriate to award an amount of Rs.1.5 lakhs towards pain and sufferings and an amount of Rs.5 lakhs towards loss of amenities. The minimum wages at the time of the accident were Rs.6761/- per month i.e. about Rs.225/- per day. Having remained admitted in the hospital for a period of about three weeks, the appellant would have required two attendants. Hence, an amount of Rs.9,450/- (225x2x21) is awarded towards attendant charges. In view of the above, the compensation re-worked is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income of the injured	Rs.6761/-
	Income as per 31% functional disability	Rs.2028/-
	Annual Income	Rs.24336/- (2028x12)
2	Multiplier of 13	Rs.316368/- (24336x13)
3	Future Prospects @ 10%	Rs.348005/-
4	Medical Bills	Rs.815947/-
5	Pain and sufferings	Rs.150000/-
6	Loss of Amenities	Rs.500000/-
7	Attendant charges	Rs.9450/-
	Total Compensation	Rs.18,23,402/-
	Amount Awarded by the Tribunal	Rs.10,00,000/-
	Enhanced amount	Rs.8,23,402/-

The amount of enhanced compensation over and above the amount awarded by the Tribunal shall carry interest @ 6% per annum from the date of filing of the claim petition till realization.

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.

24.01.2023
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(ALKA SARIN)
JUDGE

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