

FAO-479-2017(O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****FAO-479-2017(O&M)****Date of decision : 25.05.2023**

Amrik Singh

... Appellant(s)

Versus

Manjinder Singh &Ors

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Anil Kumar Spehia, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)**CM-1488-CII-2017**

This is an application for condonation of delay of 38 days in filing the appeal.

For the reasons stated in the application, delay of 38 days in filing the appeal is condoned. CM stands disposed off.

FAO-479-2017

1. The present appeal has been preferred by the injured claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter referred to as 'Tribunal').

2. The factum of the accident is not in dispute and hence the facts are not being adverted to. In the present case the injured claimant-appellant,

as per the statement of Dr. Ravi Kumar Preenja and as per the disability certificate (Ex.P5), had suffered 22% disability in relation to his left lower limb. It has also been affirmed by the doctor that the disability was permanent in nature and the patient may encounter difficulty in cross-leg sitting, squatting climbing stairs and running. The Tribunal has awarded the following compensation:

- I. Pecuniary damages
1. Loss of income

Rs.39,600/-
2. Transport to hospital and Diet and nutrition

Rs.10,000/-
3. Attendant charges

NIL
4. Medical expenses

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- (i) Cost of medicines

(ii) Hospital charges

(iii) Consultation charges

(iv) Future expenses
- II. Non pecuniary charges
5. Percentage of disability assessed and nature of disability as permanent or temporary.

22% Permanent
- Loss of amenities or loss of expectation of life span on account of disability.
6. Pain and suffering

Rs.10,000/-
7. Loss of prospects of marriage

NIL
- III. Disability resulting in loss of earning capacity
8. Percentage of loss of earning capacity in relation to disability

Rs.44,000/-
- Income x% earning capacity x

no. of months x multiplier.

9. Total Rs.1,03,600/- rounded
off **Rs.1,04,000/-**

3. Learned counsel for the injured claimant-appellant would contend that the claimant-appellant remained admitted in hospital from 14.04.2014 to 25.04.2014 and the amount awarded under the head 'pain and suffering' is on the lower side. Learned counsel would further contend that the amount awarded under the head 'transportation, diet and nutrition' is also on the lower side.

4. *Per contra*, learned counsel for respondent No.3 would contend that sufficient amount of compensation has been awarded to the injured claimant-appellant and there is no scope of any enhancement.

5. Heard.

6. In the present case, as per the disability certificate (Ex.P5), the claimant-appellant has suffered 22% disability in relation to the left lower limb. Dr. Ravi Kumar Preenja, who appeared as PW-2, had stated that the disability was permanent in nature and the patient may encounter difficulty in cross-leg sitting, squatting, climbing stairs and running. He also stated that the disability has been assessed in relation to limb and it cannot be presumed that the injured claimant-appellant had become disabled to the extent of 22%. It has come in evidence that the injured claimant-appellant is still in service and hence no amount is being awarded towards future prospects and the method of multiplier is not applicable in the present case.

However, the Tribunal has awarded an amount of Rs.10,000/- towards 'pain

and suffering’ which is on the lower side. Hence, keeping in view the fact that the claimant-appellant remained admitted in hospital from 14.04.2014 to 25.04.2014, the amount awarded towards ‘pain and suffering’ is enhanced to Rs.1,00,000/-. An amount of Rs.10,000/- has been awarded towards ‘transportation and diet/nutrition’ which is also on the lower side and the same is accordingly enhanced to Rs.20,000/-. Further, the amount awarded towards disability suffered by the injured-appellant is also enhanced from Rs.44,000/- to Rs.1,00,000/-. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Pain and suffering	Rs.1,00,000/-
2.	Transport and special diet/nutrition	Rs.20,000/-
3.	Loss of earning capacity in relation to disability	Rs.1,00,000/-
	Total Compensation	Rs.2,20,000/-
	Compensation awarded by the Tribunal	Rs.1,04,000/-
	Enhanced amount	Rs.1,16,000/-

7. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till realization of the entire amount.
8. 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.

25.05.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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