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

FAO-7136-2018

Date of Decision: 08.12.2023

NEW INDIA ASSURANCE COMPANY LTD.

...Appellant.

Vs.

AMIT KUMAR AND ANOTHER

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Ashwani Talwar, Advocate and
Mr. Satpal Dhamija, Advocate
for the appellant.

Mr. Ashish Rana, Advocate for
Mr. S.K. Rana, Advocate
for respondent No.1.

Mr. Aditya Yadav, Advocate
for respondent No.2.

SANJAY VASHISTH, J. (Oral)

Learned counsel for the appellant argues that the present appeal has been filed to challenge the quantum of compensation awarded by Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as “Tribunal”).

2. Respondent/claimant-Amit Kumar suffered injuries in an accident which took place on 20.05.2017, while going to Jhajjar City on his motorcycle bearing registration No. HR-14D-0803. Factual aspect is that when respondent/claimant/injured reached near Sector-16, Jhajjar, driver of the Tata Canter bearing registration No. HR-63A-9429 came driving from Jhajjar side in a rash and negligent manner and at a very high speed suddenly dashed into motorcycle of the respondent/claimant. Due to the collusion,

respondent/claimant fell down along-with his motorcycle and received multiple grievous injuries.

3. Resultantly, FIR No. 379 dated 20.05.2047 under Sections 279 and 337 IPC was registered at Police Station Jhajjar, which was later on converted to Section 338 IPC.

4. The appellant herein is the Insurance company which insured the offending vehicle i.e. Tata Canter bearing registration No. HR-63A-9429. Learned Tribunal held that the accident has taken place due to the rash and negligent driving of the said offending vehicle.

5. Under issue No.2, learned Tribunal examined the adequate amount of compensation for which the respondent/claimant/injured is entitled, taking note of the fact that the respondent/claimant/injured was employed in the Indian Army, drawing a salary of Rs.40,000/- per month and the disability certificate Ex.P-2 shows that the left leg of the respondent/claimant was amputated from knee and thus, he has become physically permanently disabled to the extent of 75% in relation to his left lower limb.

6. Due to the permanent medical disability, respondent/claimant was proposed to be retired w.e.f. 31.07.2018 from his service. Learned Tribunal also took note of the fact that the said aspect is evident from the discharge order on medical grounds dated 19.02.2018, which was produced by the respondent/claimant/injured during the course of arguments. Taking note of the fact that the said 75%functional disability has infact resulted into respondent losing the honourous job and that the injured would not be able to do the job of his choice for the whole of his life and also the fact that the

respondent/claimant is between the age of 31 to 35 years, multiplier of 16 was applied. Consequently, learned Tribunal held respondent/claimant entitled to receive the compensation amount to the tune of ₹57, 60,000/- (fifty seven lacs and sixty thousand only).

7. While holding so, learned Tribunal also considered that after retirement from service, the respondent/claimant/injured shall be entitled to the pension, which shall be 50% of his current salary, and therefore, reduced the compensation amount to half i.e. ₹28,80,000/-(twenty eights lacs and eighty thousand only). Relevant findings recorded in this regard is reproduced as follows:

“15. The respondents have not produced any evidence to rebut this evidence of the respondent/claimant that he is employed in the Army and drawing of the salary of Rs.40,000/- per month. The claim of the respondent/claimant is supported by statement of account in the month of April 2017 Ex.P17. Thus, the salary of the respondent/claimant is proved to be Rs.40,000/- per month from his permanent job in the Army. The respondent/claimant has produced disability certificate Ex. P2 showing that his left leg was amputated from knee and he has become physically disabled to the extent of 75% permanently in relation of his left lower limb. Although, the respondent/claimant is still in service yet he has been proposed to be retired we.f. 31.7.2018 from his service due to permanent medical disability which is evident from the discharge order on medical grounds dated 19.2.2018 produced by the learned counsel for the respondent/claimant during the course of arguments. Thus, it appears that the accidental injuries resulted in amputation of the left leg of the respondent/claimant which cost him his service. Thus, the functional disability of the respondent/claimant cannot be held to be less than 75% regarding his all body and he deserves to be compensated for the loss of income due to the said disability. The contention of the learned counsel for the respondents that the disability of 75% was only qua the left leg/lower limb as mentioned by the medical officer in disability certificate Ex.P2 is devoid of any

force because due to the permanent disability of amputation of his left leg the respondent/claimant not only has to retire from his job prematurely but also he shall not be able to do the job of his choice in future, due to the permanent disability. Thus, he is entitled to be compensated for loss of income due to his 75% functional disability.

16. Keeping in view the age of the respondent/claimant between 31 to 35 years the multiplier of 16 is to be applied. Therefore, the total loss of income to the respondent/claimant due to the permanent disability shall be 75% of Rs.40,000/- X12 X16 = 57,60,000/-. However, it is not a disputed fact that after retirement from the service the respondent/claimant shall be entitled to the pension, which shall be approximately 50% of his current salary. pension shall be paid to him till his life and thereafter, his dependents shall be entitled to the family pension as per Government Rules. Therefore, the loss of income due to the disability is to be computed by deduction of 50% of the amount on account of pension to the respondent/claimant from the total loss calculated above. Thus, the respondent/claimant shall be entitled to the compensation on account of loss of income due to the permanent disability 50% of Rs.57,60,000/- i.e. Rs.28,80,000/- ”

8. Some part of the compensation was awarded under different heads also and for the purpose of clarity, the same are reproduced herein as follows:

1.	On account of transportation	Rs.25,000/-
2.	On account of attendant charges	Rs.25,000/-
3.	On account of special diet	Rs.25,000/-
4.	On account of loss of income and permanent disability	Rs.28,80,000/-
5.	On account of future medical expenses	Rs.50,000/-
6.	On account of expenses on artificial limb	Rs.75,000/-
	Total	Rs. 30,80,000/-

9. The total amount of compensation awarded was Rs.30,80,000/- along with interest @ 7% per annum from the date of institution of the claim

petition till its actual realization from the respondents jointly and severally.

10. Having heard learned counsel for the parties, I do not find any infirmity in the award dated 20.07.2018 and the view taken by learned Tribunal in paragraph No. 15, where it has been observed that 75% disability in fact, has costed the services of the respondent/claimant/ and he would not be able to join any service of his choice ever in his life.

11. Therefore, even learned counsel for the appellant could not address any substantial reason to change the view point taken by the learned Tribunal. Thus, the present appeal is dismissed.

(SANJAY VASHISTH)
(JUDGE)

08.12.2023

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