

Neutral Citation No. 2024:PHHC:048179

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
139-3

FAO-1128-1993 (O&M)
Date of Decision:09.04.2024

Raj Kumar Chalia

.... Appellant

Vs

Shri Joga Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Maneet Kaushik, Advocate for
Mr. Ashit Malik, Advocate for the appellant.

Mr. Harkirat Singh, Advocate for
Mr. Vikram Singh, Advocate for respondent No.1.

None for respondents No. 2 and 5.

Mr. Neeraj Khanna, Advocate for
Mr. R.N. Singal, Advocate for respondent No.3.

Mr. Suvir Dewan, Advocate for respondent No.6.

SUVIR SEHGAL, J. (ORAL)

1. By way of instant appeal filed under the Motor Vehicles Act, 1988, claimant-appellant has approached this Court, for enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short “the Tribunal”), Bhiwani and for modification of

award dated 18.02.1993, whereby he has been awarded Rs.68,400/- for the injuries suffered by him.

2. Factual background, in brief, may be noticed. As the result of vehicular accident between a Tempo and a stationary vehicle, appellant, who was a passenger in the Tempo suffered injuries. A claim petition has been filed under Section 166 of the Motor Vehicles Act, 1988, claiming Rs. 5 Lacs as compensation.

4. I have heard counsel for the parties and examined the available record with their able assistance.

5. On the basis of evidence led by the parties, the Tribunal returned a finding that both the vehicles were at fault and apportioned in liability in the ratio of half and half. Appellant produced a disability certificate, Ex.P-6, as well as examined PW-5, Dr. P.K. Bhatia, Orthopedic Surgeon, in support of his claim. The Tribunal came to the conclusion that his permanent effective disability is between 25% to 30%. Although as per the disability certificate, his handicap had been certified at 33%. The appellant was working as a Cobbler and as he was remained confined to bed for six months, the Tribunal assessed his monthly income at Rs.1000/- and determined the loss of income as Rs.6000/-. The Tribunal also awarded an amount of Rs.4,000/- on account of medical treatment, special diet and other miscellaneous expenses. Assessing the loss due to disability in the left hand at Rs.2000/- per month and applying the multiplier of 16, an amount of Rs.38,400/- was awarded. In all, as noticed above, the appellant was awarded Rs.68,400/-. It was ordered by the Tribunal that half of the

awarded amount shall be recovered jointly and severally from respondents No.1 and 2 and the remaining half from respondents No.5 and 6, jointly and severally.

6. In ***Raj Kumar Versus Ajay Kumar and another***, 2011(1) SCC 343, Supreme Court has held that where an injured has suffered a permanent disability and his actual earning capacity has been reduced, compensation has to be awarded by determining the functional disability. Three steps have been laid down by the Supreme Court. Following the observations of the Supreme Court as well as the evidence led by the claimant, this Court is of the view that functional disability of the claimant-appellant can safely be determined @ 50%. Appellant has not only suffered physical disability but he could not even continue with his job as his work was not found to be satisfactory by his employer, after the accident. Counsel for the claimant has urged that the monthly salary determined by the Tribunal deserves to be increased. This Court is of the opinion that there can be no increase as the appellant's stand was that he was getting salary of Rs.1205/- per month, which could not be established.

7. Besides, the said amount, as has been held in ***Raj Kumar's*** case (supra), a nominal amount is awarded under the head of loss of amenities, which is determined at Rs.25,000/-. The Tribunal has awarded a multiplier of 16 which deserves to be enhanced and is increased to 18 in view of the judgment of the Supreme Court in ***Sarla Verma Versus Delhi Transport Corporation (2009) 6 SCC 121***. Another increase @ 40% is granted to the claimant on account of

future prospects.

8. Without interfering with the rate of interest as awarded by the Tribunal or the direction regarding recovery from the respondents, the compensation amount is ordered to be enhanced as indicated in preceding paragraphs and the award of the Tribunal is modified accordingly.
9. Appeal is disposed of.
10. Pending application(s), if any, is/are disposed of.

09.04.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>