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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1831-2009 (O&M)
Date of decision : 25.01.2024

Samay Singh ... Appellant(s)

Versus

Janu & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Tushar Gera, Advocate for the appellant.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant against the award dated 20.08.2008 passed by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') whereby an amount of Rs.2,70,000/- was awarded as compensation to the claimant-appellant.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. In the present case the Tribunal had awarded the following compensation :

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Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.2,500/-
2	Annual income	[Rs.2,500 x 12] =Rs.30,000/-
3	Loss of his earning capacity	Rs.12,000/-
4	Multiplier of 15	[Rs.12,000 x 15] = Rs.1,80,000/-
5	Medical Bills	Rs.45,000/-
6	Loss of income during treatment	Rs.10,000/-
7	Pain and suffering; special diet; and attendant charges	Rs.35,000/-
9	**Total Compensation**	**Rs.2,70,000/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellant would contend that the Tribunal has wrongly assessed the income of the injured claimant-appellant as Rs.2,500/- per month as the minimum wage prevailing at the relevant time was Rs.2,600/- per month. The learned counsel has, however, candidly admitted that multiplier of 15 has wrongly been applied, whereas the same ought to have been 13. It is further the contention of the learned counsel that no amount has been awarded towards future prospects. The learned counsel would further contend that the amount awarded towards pain and suffering; special diet; and attendant charges is also on the lower side.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

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6. Heard the learned counsel for the parties.

7. In the present case the claimant-appellant, who was 50 years of age, was working as a vendor and due to the accident his right leg was amputated. The bodily disability assessed by the Tribunal is 40%. Keeping in view the fact that the claimant-appellant in the present case was working as a vendor and his right leg had been amputated, the functional disability also ought to have been assessed as 80%. The income of the claimant-appellant has wrongly been assessed as Rs.2,500/- per month inasmuch as the minimum wage for an unskilled worker at the relevant point of time was Rs.2,600/- month, hence, the income of the claimant-appellant is assessed as Rs.2,600/- per month. The Tribunal has wrongly applied the multiplier of 15, whereas multiplier of 13 ought to have been applied in the present case. No amount has been awarded towards future prospects. The Supreme Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** has held as under :

> *"12. In view of the above decisive rulings of this court, the High Court clearly erred in holding that compensation for loss of future prospects could not be awarded. In addition to loss of future earnings (based on a determination of the income at the time of accident), the appellant is also entitled to compensation for loss of future prospects, @ 40% (following the Pranay Sethi principle).*
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> *13. The factual narrative discloses that the appellant, a 20-year-old data entry operator (who had studied up to*

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> *12th standard) incurred permanent disability, i.e. loss of his right hand (which was amputated). The disability was assessed to be 89%. However, the tribunal and the High Court re-assessed the disability to be only 45%, on the assumption that the assessment for compensation was to be on a different basis, as the injury entailed loss of only one arm. This approach, in the opinion of this court, is completely mechanical and entirely ignores realities. Whilst it is true that assessment of injury of one limb or to one part may not entail permanent injury to the whole body, the inquiry which the court has to conduct is the resultant loss which the injury entails to the earning or income generating capacity of the claimant. Thus, loss of one leg to someone carrying on a vocation such as driving or something that entails walking or constant mobility, results in severe income generating impairment or its extinguishment altogether. Likewise, for one involved in a job like a carpenter or hairdresser, or machinist, and an experienced one at that, loss of an arm, (more so a functional arm) leads to near extinction of income generation. If the age of the victim is beyond 40, the scope of rehabilitation too diminishes. These individual factors are of crucial importance which are to be borne in mind while determining the extent of permanent disablement, for the purpose of assessment of loss of earning capacity."*

8. In the present case, the Tribunal ought to have made an addition of 25% towards future prospects keeping in view the age of the claimant-appellant. It has also come in the evidence that the claimant-appellant

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remained bedridden for a period of four months. Keeping in view the fact that the minimum wage for an unskilled worker was Rs.2,600/- and the claimant-appellant would have had to employ two workers as attendants during the period of four months, hence, an amount of Rs.20,800/- (Rs.2,600x2x4) is awarded towards attendant charges. The amount of Rs.45,000/- awarded by the Tribunal towards medical bills is also maintained. Further, the amount of Rs.35,000/- awarded towards pain and suffering and special diet is also on the lower side and hence the amounts of Rs.1,25,000/- and Rs.15,000/- are awarded towards pain and suffering and special diet, respectively. An amount of Rs.30,000/- is also awarded towards transportation charges and further an amount of Rs.5,00,000/- is awarded under the head 'loss of amenities'. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly income	Rs.2,600/-
2	Annual Income of the appellant as per 80% functional disability	[Rs.2,080x12] = Rs.24,960/-
3	Future prospects @ 25%	[Rs.24,960+6240] = Rs.31,200/-
4	Multiplier of 13	[Rs.31,200x13] = Rs.4,05,600/-
5	Special Diet	Rs.15,000/-
6	Medical Bills	Rs.45,000/-
7	Transporation charges	Rs.30,000/-
8	Pain and suffering	Rs.1,25,000/-
9	Loss of amenities	Rs.5,00,000/-
10	Attendant Charges	Rs.20,800/- (Rs.2,600x2x4)

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11	**Total Compensation**	**Rs.11,41,400/-**
	Amount Awarded by the Tribunal	**Rs.2,70,000/-**
	Enhanced amount	**Rs.8,71,400/-**

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

10. 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.

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Yogesh Sharma

(ALKA SARIN)
JUDGE

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

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