

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.6211 of 2011
Date of Decision : 30.01.2024

Darshan Singh

....Appellant

VERSUS

Sukhwinder Singh and Others

....Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Puneet Chauhan, Advocate for the appellant.

Mr. Eklavya, Advocate
for respondent No.3-Insurance Company

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellant for enhancement of the compensation granted by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as ‘the Tribunal’) vide award dated 09.04.2011.
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:

Sr. No.	Heads	Compensation Awarded
1	Compensation of Rs.2,000/- for every 1% disability	[Rs.2,000 x 80] = Rs.1,60,000/-
2	Charges of artificial limb	Rs.3,72,300/-
3	Medical Bills	Rs.1,78,066/-

4	Special Diet	Rs.20,000/-
5	Pain and mental agony	Rs.25,000/-
6	Transportation charges	Rs.15,000/-
	Total Compensation	Rs.7,70,366/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellant would contend that due to the accident the claimant-appellant remained admitted in CMC Ludhiana from 29.10.2009 to 09.11.2009. In the accident he suffered multiple injuries and due to the injuries received by him his left leg below the knee was amputated on 29.10.2009 and thereafter on 04.11.2009 same leg above the knee was also amputated and stump closure was done. Due to the amputation, prosthetic limb was affixed on which he spent Rs.3,63,200/-. It is further the contention that the claimant-appellant suffered 80% disability and that the Tribunal has awarded Rs.2,000/- for every 1% disability. Learned counsel for the claimant-appellant would contend that the amounts under the heads pain and suffering and transportation are also on the lower side. It is further the contention of learned counsel for the claimant-appellant that the prosthetic limb, which was fixed in the year 2009-10, now requires replacement, which has not been taken into account. Learned counsel for the claimant-appellant would further contend that since 80% disability was suffered by the claimant-appellant at a young age of 23 years, hence, a multiplier method ought to have been applied. Learned counsel for the claimant-appellant has relied upon judgments of the Hon’ble Supreme Court in the cases of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** and **Erudhaya Priya vs. State Express Transport Corporation Ltd. [2020 (3) RCR (Civil) 374]** and that of the Delhi High Court in case of **Reliance General Insurance Co. Ltd. vs.**

Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602].

5. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that sufficient amount of compensation has already been awarded and there was no scope of any further enhancement.

6. I have heard learned counsel for the parties.

7. In the present case the claimant-appellant was 23 years of age and as a result of the accident his leg was amputated above the knee and his permanent disability was assessed as 80%, which is not in dispute. Though it has been pleaded by the claimant-appellant that he was working as a tractor mechanic, however, in the absence of any evidence the minimum wage for an unskilled worker, which was Rs.3,300/- per month, is assessed as the monthly income of the claimant-appellant. Keeping in view the fact that the claimant-appellant was 23 years of age and his entire life is ahead of him and he had suffered 80% disability, a multiplier method ought to have been applied. Keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, a multiplier of 18 would be applicable. As per the law laid down in case of **Pappu Deo** (supra) the claimant-appellant would also be entitled to an addition of 40% towards loss of future prospects. The amounts already awarded by the Tribunal for the prosthetic limb and medical bills are maintained. The prosthetic limb was fixed in the year 2009 and would certainly require to be changed in future. Taking a cue from the judgment in the case of **Rohit Kumar** (supra) wherein an amount of Rs.7,00,000/- was awarded towards cost of the artificial limb in the year 2017, I deem it appropriate to award an amount of Rs.10,00,000/- towards costs of the artificial limb and future maintenance of the said artificial limb.

It has come on the record that the claimant-appellant remained admitted in hospital from 29.10.2009 to 09.11.2009 and would have required an attendant for the said period. Attendant charges are also awarded for 12 days @ Rs.3,300/- per month, which was the minimum wage at the relevant time, which comes to Rs.1,320/-. The amount of Rs.20,000/- awarded by the Tribunal under the head special diet is maintained. The amount awarded under the head pain and suffering is on the lower side and the same is enhanced to Rs.2,00,000/- and an amount of Rs.5,00,000/- is also awarded towards loss of amenities of life. An amount of Rs.15,000/- awarded by the Tribunal towards transportation charges is enhanced to Rs.30,000/-.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income	[Rs.3,300 x 12] = Rs.39,600/-
2	Loss of annual Income on account of 80% permanent disability	Rs.31,680/- (Rs.39,600 - 7,920)
3	Future prospects @ 40%	[Rs.31,680 + 12,672] = Rs.44,352/-
4	Multiplier of 18	[Rs.44,352 x 18] = Rs.7,98,336/-
5	Special Diet	Rs.20,000/-
6	Medical Bills as allowed by the Tribunal	Rs.1,78,066/-
7	Charges of artificial limb as allowed by the Tribunal	Rs.3,72,300/-
8	Transportation charges	Rs.30,000/-
9	Pain and suffering	Rs.2,00,000/-
10	Loss of amenities of life	Rs.5,00,000/-
11	Costs of Artificial limb and its maintenance in future	Rs.10,00,000/-
12	Attendant charges for 12 days	Rs.1,320/-
	Total Compensation	Rs.31,00,022/-
	Amount awarded by the Tribunal	Rs.7,70,366/-

	Enhanced amount	Rs.23,29,656/-
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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.

30.01.2024
jk

(ALKA SARIN)
JUDGE

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