

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2384-2015 (O&M)
Date of decision : 04.03.2024

Satnam Singh ... Appellant(s)

Versus

Roshal Lal & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Yashpal Thakur, Advocate and
Mr. Manmeet Singh, Advocate for the appellant.

Mr. Rose Gupta, Advocate,
Ms. Hardeep Kaur, Advocate and
Ms. Yashipa Walia, Advocate for respondent Nos.1 and 2.

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

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant against the award dated 04.12.2014 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') whereby an amount of Rs.1,30,000/- 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 :

Sr. No.	Heads	Compensation Awarded
1	Amount towards pecuniary part of damages	Rs.80,000/-
2	Special diet and attendant charges	Rs.50,000/-
3	Total Compensation	Rs.1,30,000/-
	Interest	6% per annum

4. Learned counsel for the claimant-appellant has contended that the claimant-appellant had suffered multiple fractures on both legs, right femur and shortening of right leg and that only an amount of Rs.1,30,000/- has been awarded for the injuries suffered by the claimant-appellant. It is further the contention that keeping in view the nature of injuries suffered by the claimant-appellant, a multiplier method ought to have been applied and the income of the claimant-appellant ought to have been assessed. 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 special diet and attendant charges is also on the lower side. In support of his contention he has relied upon judgment in the cases of **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]**.

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.

6. Heard the learned counsel for the parties.

7. In the present case admittedly the claimant-appellant has suffered multiple fractures on both legs, right femur and shortening of right leg. Though the Tribunal while relying upon the certificate (Ex.PW4/A) assessed the disability of the claimant-appellant as 40%, however, functional disability of the claimant-appellant has not been assessed. In view thereof, this Court deems it fit to assess the functional disability as 25%.

8. Hon'ble the Supreme Court in the case of **Pappu Deo Yadav** (supra) 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).

13. The factual narrative discloses that the appellant, a 20-year-old data entry operator (who had studied up to 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.”

9. In view of the law laid down in the case of **Pappu Deo Yadav** (supra), a multiplier method is applied in the present case keeping in view the functional disability suffered by the claimant-appellant. The accident had taken place on 30.12.2000 and the minimum wage for an unskilled worker at the relevant point of time was Rs.1,906/- per month, hence, the income of the claimant-appellant is assessed as Rs.1,906/- per month. A multiplier of ‘16’ would be applicable as per the age of the claimant-appellant who was

34 years of age at the time of the accident and the claimant-appellant would also be entitled to an addition of 40% towards loss of future prospects. Further, the amount of Rs.50,000/- awarded towards pain and suffering; special diet and attendant charges is also on the lower side and hence the same is enhanced to Rs.3,00,000/-. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.1,906/-
2	Annual Income of the appellant as per 25% disability	[Rs.477 x 12] = Rs.5,724/-
3	Future prospects @ 40%	[Rs.5,724+2,290] = Rs.8,014/-
4	Loss of income after applying multiplier ‘16’	[Rs.8,014x16] = Rs.1,28,224/-
5	Pain and suffering, Special Diet and attendant charges	Rs.3,00,000/-
6	Total Compensation	Rs.4,28,224/-

10. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% 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.

04.03.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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