

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5049-2013 (O&M)
Date of Decision : 20.03.2024

Charan Singh
.... Appellant

VERSUS

Lakhpat & Ors
.... Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Prashant Singh Chauhan, Advocate for the appellant.
Mr. Rajneesh Malhotra, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Rewari vide award dated 09.04.2013.
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. The Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Compensation on account of permanent partial disablement to the extent of 30%	Rs.60,000/-
2	Pain and suffering	Rs.20,000/-

3	Medical Expenses	Rs.4,08,768/-
4	Special diet/attendant charges	Rs.5,000/-
5	Transportation charges	Rs.5,000/-
6	Total Compensation	Rs.4,98,768/-
7	Interest	9% per annum

4. Learned counsel for the claimant-appellant has contended that the claimant-appellant was 29 years of age at the time of the accident and due to the accident which took place on 19.07.2010 he remained admitted in hospital from 19.07.2010 to 28.07.2010 where he was operated upon. The learned counsel would further contend that the claimant-appellant sustained more than 10 fractures and his right eye was visually damaged and that as per the disability certificate (Ex.P2) the claimant-appellant has suffered disability to the extent of 30%. The learned counsel would further contend 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 notionally and the amount also ought to have been awarded towards future prospects. The learned counsel would further contend that the claimant-appellant remained admitted in hospital from 19.07.2010 to 28.07.2010 and hence the amount awarded towards pain and suffering, special diet, attendant charges and transportation charges is also on the lower side. In support of his contentions he has relied upon judgment in the case 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/injuries and his right eye was visually damaged. As per the disability certificate (Ex.P2) the Tribunal has assessed the disability of the claimant-appellant to the extent of 30%. Keeping in view the disability suffered by the claimant-appellant, this Court deems it fit to assess his functional disability to the extent of 30%.

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) and keeping in view the functional disability of the claimant-appellant, a multiplier method is applied in the present case. Further, the income of the claimant-appellant is assessed as per the minimum wage prevalent at the time of the accident. The accident had taken place on 19.07.2010 and the minimum wage for a skilled worker was Rs.4,998/- per month, hence, the income of the claimant-appellant is assessed as Rs.4,998/- per month. Keeping in view the age of the claimant-appellant being 29 years,

a multiplier of ‘17’ would be applicable and he would also be entitled to an addition of 40% towards loss of future prospects.

10. Admittedly, the claimant-appellant remained under treatment in hospital for 11 days w.e.f. 19.07.2010 to 28.07.2010 and during such period, he would have required an attendant and thus he would also be entitled to compensation in lieu of attendant charges for 11 days according to the above minimum wage, which comes to Rs.1,832/-. The amount of Rs.5,000/- awarded by the Tribunal under the head special diet is on the lower side and the same is enhanced to Rs.25,000/-. The amount of Rs.20,000/- awarded under the head pain and suffering is also on the lower side and the same is enhanced to Rs.2,00,000/-. An amount of Rs.5,000/- awarded by the Tribunal towards transportation charges is enhanced to Rs.30,000/-. Medical expenses of Rs.4,08,768/- awarded by the Tribunal are maintained. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.4,998/-
2	Annual Income	[Rs.4,998 x 12] = Rs.59,976/-
3	Loss of annual Income on account of 30% disability	Rs.17,993/-
4	Loss of income after applying multiplier ‘17’	[Rs.17,993 x 17] = Rs.3,05,881/-
5	Pain and suffering	Rs.2,00,000/-
6	Special Diet	Rs.25,000/-
7	Attendant charges	Rs.1,832/-
8	Medical expenses	Rs.4,08,768/-
9	Transportation charges	Rs.30,000/-
10	Total Compensation	Rs.9,71,481/-

11. 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.

12. 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.

20.03.2024

Yogesh Sharma

(ALKA SARIN)

JUDGE

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