

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.6232 of 2013
Date of Decision : 16.02.2024

Vipul SharmaAppellant

VERSUS

Sarup Chand and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.P.S. Rana, Advocate for the appellant.
Mr. Rajesh Bansal, 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, SAS Nagar (Mohali) vide award dated 01.06.2013.
2. Since the facts in the present case are not in dispute, the same are not being adverted to for the sake of brevity. It is not in dispute that the claimant-appellant at the time of accident was aged 27 years and was working with M/s Ranbaxy Laboratories Limited and was getting a salary of Rs.20,173/- per month.
3. In the present case the Tribunal has awarded the following compensation:

Sr. No.	Heads	Compensation Awarded
1	Medical expenses	Rs.86,907/-
2	25% functional disability	Rs.5,14,417/-
3	Motorcycle repair	Rs.8,357/-

4	Loss of salary	Rs.2,13,372/-
5	Loss of provident fund	Rs.6,348/-
6	Loss of income of the father	Rs.1,00,000/-
7	Attendant charges	Rs.36,000/-
8	Special diet charges	Rs.24,000/-
9	Transportation charges etc.	Rs.20,000/-
10	Loss on account of increment	Rs.12,000/-
	Total Compensation	Rs.9,65,000/- (rounded off)
	Interest	6% per annum

4. Learned counsel for the claimant-appellant would contend that the claimant-appellant, who was 27 years of age at the time of accident, was rendered disabled and as per the disability certificate he was declared as having 25% physical disability and 45% mental disability and his total disability was assessed as 57%. The Tribunal assessed the functional disability of the claimant-appellant as 25% after noticing that the claimant-appellant has been diagnosed as post traumatic dementia 45% and right hemiparesis 25%. It is further the contention that keeping in view the nature of injuries suffered rendering the claimant-appellant 25% physically disabled and 45% mentally disabled, a multiplier method ought to have been applied. In support of his contention learned counsel for the claimant-appellant has relied upon judgments 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]**. It is further the contention that even the amounts awarded towards pain and suffering and loss of amenities of life are on the lower side. Even the amount awarded under the head of attendant charges is also on the lower side.

5. Per contra learned counsel for respondent No.3 has contended that already an amount of Rs.5,14,417/- has been awarded towards functional disability and an amount of Rs.2,13,372/- towards loss of salary. Attendant charges have also been awarded as Rs.36,000/- and hence there was no scope of any further increase.

6. Heard.

7. In the present case it has come on the record that the claimant-appellant had suffered 25% physical disability and 45% mental disability. The disability certificate (Ex.PW7/1) reveals that the claimant-appellant is a case of multiple disabilities. Due to right hemiparesis, he has been certified as having 25% permanent physical disability and because of post traumatic dementia he has been certified as having 45% mental disability and the total disability has been assessed as 57%. The Tribunal has erred in taking the functional disability as 25%. Not only is the claimant-appellant physically disabled but he has also been rendered mentally disabled as a result of the accident hampering his physical capabilities as well as mental capabilities. In view thereof, this Court deems it fit to assess the functional disability as 57%.

8. Hon'ble 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 disability suffered by the claimant-appellant, this Court deems it appropriate to apply a multiplier method. There is no dispute regarding the income of the claimant-appellant, which was Rs.20,173/- per month. Keeping in view the age of the claimant-appellant, a multiplier of 17 would have to be applied and an addition of 40% would have to be made towards loss of future prospects. A sum of Rs.86,907/- has already been granted by the Tribunal towards medical expenses and hence the same is maintained. Though Rs.1,00,000/- has been granted towards loss of income to the father, learned counsel for the claimant-appellant has fairly conceded that the entire amount may be re-worked by this Court. In view thereof, and keeping in view the injuries received and resultant disability suffered by the claimant-appellant, an amount of Rs.2,00,000/- is awarded towards pain and suffering and Rs.2,00,000/- towards loss of amenities of life. The amount of Rs.36,000/- awarded towards attendant charges is maintained. However, the amount awarded under the head special diet is increased to Rs.50,000/- and the amount awarded towards transportation charges is also enhanced to Rs.50,000/-.

10. Accordingly the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.20,173/-
2	Annual income	[Rs.20,173 x 12] = Rs.2,42,076/-
3	Loss of annual Income on account of 57%	Rs.1,37,983/-

	permanent disability	
4	Future prospects @ 40%	[Rs.1,37,983 + 55,193] = Rs.1,93,176/-
5	Multiplier of 17	[Rs.1,93,176 x17] = Rs.32,83,992/-
6	Medical Bills as allowed by the Tribunal	Rs.86,907/-
7	Attendant charges as allowed by the Tribunal	Rs.36,000/-
8	Special Diet	Rs.50,000/-
9	Transportation charges	Rs.50,000/-
10	Pain and suffering	Rs.2,00,000/-
11	Loss of amenities of life	Rs.2,00,000/-
	Total Compensation	Rs.39,06,899/-

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

16.02.2024
jk

(ALKA SARIN)
JUDGE

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