



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

FAO-4288-2016 (O&M)
Date of decision : 18.11.2024

Des Raj Appellant

versus

Akhilesh Sharma and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kuldeep Sheoran, Advocate
for the appellant.

Mr. Ankur Gupta, Advocate
for respondent No.2-Insurance Company.

PANKAJ JAIN, J. (Oral)

1. Claimant is in appeal seeking modification of the award dated 30.10.2015 passed by MACT, Hisar qua the quantum of compensation awarded and prays for enhancement thereof.
2. Claimant who claims to be working as a motor mechanic, met with an accident on 24.05.2015. Claim petition was filed claiming that it was rash and negligent driving of respondent No.1 that led to accident wherein the claimant suffered injuries. He remained hospitalized for about two weeks. He had to undergo a surgery. His right leg was amputated rendering him permanently disabled for whole of his life. Issue with respect to rash and negligent driving was answered in favour of the claimant. In the present appeal, the issue only relates to quantum of compensation. Tribunal held that since as per the evidence, claimant has suffered permanent disability to the extent of



awarded compensation as under:-

- “1) For medical expenses Rs. 78,700-00
 - 2) For special diet Rs. 5,000-00
 - 3) For transportation charges Rs. 5,000-00
 - 4) For pain and suffering Rs. 25,000-00
 - 5) For permanent disability Rs. 9,79,200-00
- Total Rs. 10,92,900-00”

3. While assessing loss of income, Tribunal considered the notified wages of an unskilled labour in State of Haryana i.e. Rs.6,000/-.

4. In the considered opinion of this Court, positive case pleaded by the claimant was that he was working as a car mechanic and thus, Tribunal ought to have been assessed his income treating him at least a semi skilled worker. Resultantly, his income is being taken as Rs.6100/- i.e. the minimum wages notified by the State Government on the relevant date of accident for a semi-skilled workman. Keeping in view the permanent disability suffered by the claimant on account of amputation of leg, his functional disability is taken as 100%. Loss of earning is assessed accordingly to the extent of 100%. At the time of accident, the appellant was 28 years of age. Multiplier needs to be modified to 18 in view of law laid down by Supreme Court in the case of ***‘Smt. Sarla Verma & others vs. Delhi Transport Corporation & another’ (2009) 6 SCC 121.*** Medical expenses have been paid on actual basis. Thus, there is no scope for enhancement. Nothing has been paid on account of attendant charges. The claimant remained hospitalized for two weeks. His right leg was amputated. Thus, he is being awarded special diet and attendant charges by guess work holding



that he must have remained on bed at least for three months. Resultantly, he is awarded Rs.30,000/- under each of the heads. Transportation charges have been rightly awarded @ Rs.5,000/-. Amount awarded under the head of pain and suffering is enhanced from Rs.25,000 to Rs.1,00,000/-.

- 5. Disposed off, accordingly.
- 6. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

18.11.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No