

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**FAO-7445-2014 (O&M)
Date of decision : 11.12.2024**

Gurjit Singh @ Dimpal**..... Appellant**

versus

Inderjit Singh and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Ms. Jasleen Kaur, Advocate for
Mr. M.S. Khillan, Advocate
for the appellant.

None for respondents No.1 and 2.

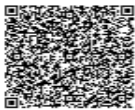
Mr. Vinod Chaudhri, Advocate
for respondent No.3-Insurance Company.

PANKAJ JAIN, J. (Oral)

1. Claimant is in appeal seeking enhancement of compensation awarded by the Tribunal on account of injuries suffered by him in a motor vehicular accident. The controversy in the present appeal between the parties is quite narrow and only relates to quantum of compensation, as there is no dispute with respect to liability or the findings recorded by the Tribunal regarding rashness and negligence. The Tribunal while assessing the quantum of compensation held as under:-

“xx xx xx

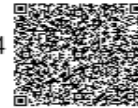
16. The claimant has proved bills Ex PS to Ex.P77 amounting to Rs.1,30,953/-. The receipts Ex.P9, Ex. P75 and Ex P76 can not be taken into consideration because vide receipt Ex.P9 the amount has been returned to the claimant whereas Ex. P75 and Ex.P76 are the receipts of bill Ex.P74 in which the same amount has been mentioned. Thus the claimant is entitled to Rs.1,30,953/- on account of medicines, x-ray, transportation,



hospitalization, implants and other tests etc. Apart from this, the disability certificate Ex.P1 has been proved by PW3 Dr. Vinod Kumar who deposed that the Board assessed disability of 30%. In the cross-examination PW5 Dr. Vinod Kumar deposed that the disability is qua particular limb and if calculated qua whole body it comes to 15%. The claimant claimed himself to be working as Foreman on Combine and also agriculturist and running dairy thereby earning Rs.25,000/- per month but I he has not placed on wood any documentary proof regarding his income. He has also not placed on the file any document regarding his employment from which it can be inferred that he is employed as Foreman on Combine as alleged in the petition. As such there is a complete hiatus on this aspect of the matter. So, he can be termed as a labourer and income of the claimant is assessed as Rs. 5000/- per month. So, claimant is entitled to a sum of Rs. 30,000/- on account of disability. Keeping in view the hospitalization, the nature of injuries and also the young age and income of the petitioner, it is just and appropriate to award another sum of Rs.15,000/- on account of loss of income. Still further, keeping in view the nature of injuries and also the age of the petitioner, it is just and appropriate to award another sum of Rs.10,000/- on account of pain and sufferings. The claimant remained admitted in the hospital and he might have taken special diet so on this account, claimant is also awarded a sum of Rs.5,000/-on account of special diet and future expenses etc. The amount of compensation can be tabulated as under:

Treatment incl. Medicines&		
transportation	:	Rs. 1,30,953/-
Disability	:	Rs. 30,000/-
Loss of work/income	:	Rs. 15,000/-
Pain and sufferings,	:	Rs.10,000/-
Special diet and		
future expenses	:	Rs.5,000/-
Total	:	Rs.1,90,953/-
In round figure	:	Rs.1,91,000-/"

2. In order to appreciate the findings recorded by the Tribunal, it will be apt to peruse the medical evidence on record in form of testimony of Dr. Vinod Kumar, SMO, Kalpana Chawla Government



Medical College Hospital, Karnal who deposed as PW-3 as under:-

“On 25.05.2011, 1 alongwith other members of the Board had examined Gurjeet Singh son of Sewa Singh, resident of VPO Shamgarh for the assessment of disability. On examination, we had found that it was a case of road side accident. After examining the patient, his X-rays and treatment record, it was found that it was operated case of right forearm. He was having degloving injury right leg and heel on the posterior aspect alongwith restrictions of right ankle and elbow movements. The disability was assessed 30% and the disability certificate is Ex.P1, which bears my signatures as well as signatures of the other members of the Board.

XXXXmn by Shri S.C. Bhardwaj counsel for respondents No. 1&2.

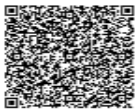
It is incorrect that we have not followed the procedure laid down to assess the disability.

XXXmn by Shri Inderjit Sachdeva counsel for respondent No.3:

It is correct that the disability when it is calculated to whole body, it will come down 50% approximately i.e. 15%. There is no disability qua restriction of right elbow. The disability qua ankle is 25% i.e. 12-1/2% qua whole body and 5% qua forearm i.e. 2-1/2% qua the whole body. It is incorrect to suggest that with the passage of time, the disability will come down to nil. It is incorrect to suggest that we had given the disability to the higher side in order to help the claimant.”

3. Evidently, the claimant suffered 30% disability as per the certificate was issued by the medical board. He has a disability qua ankle and qua forearm i.e. disability qua hand as well as feet. The case of the claimant is that he was working as a Foreman on Combine. He was a young man in his 20's. The Tribunal has only awarded a meagre amount of Rs.30,000/- on account of disability.

4. In the light of ratio of law laid down by Supreme Court in the case of *Sidram vs. The Divisional Manager, United India Insurance*



Company Ltd. and another, 2023 1 RCR (Civil) 44, the victim under Motor Vehicles Act is entitled for just compensation. Just compensation should include all elements that would help in placing the victim in as near situation as she or he was in, before the accident. Even though the claimant has not been able to produce any documentary evidence with respect to his income, but as per pleadings, he was employed as Foreman on Combine and was earning Rs.25,000/-. In the absence of there being any documentary evidence, this Court deems it apt to assess the quantum of compensation by taking the complainant to be a semi skilled worker. Accident is of 12.08.2009. As per the State of Haryana, the minimum notified wages payable to a semi skilled worker in the year 2009 were Rs.4,044/-. His functional disability is treated to be 60% keeping in view that he has been crippled both from feet as well as from hands. He is also entitled for future prospects of 40%. Resultantly, the loss of income is assessed at Rs.25,000/-. He is further awarded a sum of Rs.50,000/- on account of pain and suffering, Rs.20,000/- for special diet and Rs.20,000/- for attendant charges. Resultantly, award is modified to the aforesaid extent.

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

(PANKAJ JAIN)
JUDGE

11.12.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No