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

FAO-3324-2018 (O&M)

Date of decision: 07 November, 2024

ATUL KUMAR

....Appellant

Versus

SANJAY KUMAR AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Inderjeet Sharma, Advocate for the appellant.

Mr. Lalit Garg, Advocate for respondent no.3.

ANIL KSHETARPAL, J.

1. This is claimants' appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Jhajjar (hereinafter referred to as 'The Tribunal'). The appellant suffered 80% permanent disability on account of roadside accident on 16.11.2015. The Tribunal has awarded compensation of Rs.12,26,573/-. However, on account of permanent disability, the loss has been calculated @ Rs.2000/- per percentage of disability. The appellant suffered fracture both bones forearm (left), fracture both bones leg (left) with right brachial plexus palsy fracture left clavicle with restriction of movements of left knee with weakness of right upper limb. The loss has to be calculated after applying multiplier method. At the relevant time, the minimum wages were Rs.7600/- per month. On account of increase in the income in future, 40% is required to be added as the injured was 21 years at the time of accident. Thus, the total income will come to Rs.10,640/-.

2. Keeping in view the age of the appellant, the multiplier of 18 is required to be applied. The appellant suffered multiple fracture including both hands and both the legs. Hence, the loss in the earning capacity is assessed at

100%, because the appellant was doing physical work namely, agriculture and now he is not capable of continuing the same.

3. The learned counsel representing the respondent has read over the deposition of Dr. Pavinder Kumar Phogat who was a member of the Medical Board. The learned counsel representing the Insurance Company has failed to cross-examine the witness with respect to the appellant’s capacity to do any physical work.

4. The learned counsel representing the appellant has also submitted that on account of pain and suffering and transportation a sum of Rs.50,000/- each has been awarded. He submits that the appellant will have to undergo pain and suffering on account of disability for his entire life and he will have to be dependent upon some kind of transportation for travelling even for short distances.

5. Keeping in aforesaid facts, the amount of compensation or pain and suffering and transportation is revised to Rs.2,00,000/- and Rs.1,00,000/-, respectively, in the following manner:

Heads	Compensation awarded by the Tribunal	Compensation awarded by the High Court
Income	-	Rs.7600/-
Future Prospects	Nil	40%
Net income	-	7600 x 40/100 Rs.10,640/-
Multiplier	-	18
Treatment and medical Bills	Rs.9,66,573/-	Rs.9,66,573/-
Disability to the extent of 80% of permanent nature	Rs.1,60,000/-	10,640 x 12 x 18 = Rs.22,98,240/-

Pain and suffering	Rs.50,000/-	Rs.1,00,000/-
Transportation, attendant and Special diet etc.	Rs.50,000/-	Rs.2,00,000/-
Total compensation	12,26,573/-	Rs.35,64,813/-

5. The enhanced amount shall be payable alongwith interest @ 7.5% per annum from the date of filing of the claim petition till the date of its realisation.
6. With the aforesaid modifications, the present appeal is disposed of.
7. All the pending miscellaneous applications, if any, shall also stand disposed of.

November 07, 2024

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Whether speaking/reasoned
Whether reportable:

(ANIL KSHETARPAL)

JUDGE

Yes/No
Yes/No