

In the High Court of Punjab and Haryana, at Chandigarh

First Appeal Order No. 7184 of 2018

Date of Decision: 05.02.2024

Rakesh

... Appellant(s)

Versus

Anil Kumar and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sandeep Kumar Yadav, Advocate
for the appellant(s).

Mr. Suman Jain and Mr. Man Mohan, Advocates
for the respondent No.4.

Anil Kshetarpal, J.

1. This is claimant’s appeal for modification/enhancement of compensation awarded by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the Tribunal”).
2. The involvement of the vehicle, the injuries suffered by the appellant in the accident, the correctness of the findings with respect to the rash and negligent driving of the offending vehicle by Anil Kumar and the liability of the insurance company are not in dispute.
3. The claimant is stated to have suffered injuries including a fractured tibia of left leg. He was brought to the Government Hospital, Mahindergarh, however, due to the seriousness of the injuries and fracture, he was referred to Pooja Hospital, Narnaul, where he remained hospitalized for four days. During this period, an operation for fractured tibia of left leg

was carried out. Thereafter, he availed the treatment as an outdoor patient. As per the certificate issued by the Board of Doctors, he suffered 18% disability due to 60% decrease in the motion of left ankle on account of stiffness. The Tribunal awarded the compensation in the following manner:-

Sr. No.	Nature	Amount in Rupees
1.	Pain and Sufferings	20,000.00
2.	Special Diet	5,000.00
3.	Medical Expenses	34,821.00
4.	Total	59,821.00

4. The learned counsel representing the appellant submits that the Tribunal has erred in granting any compensation for the loss of earning particularly when the appellant was working as a Labourer. He further submits that on account of 60% restriction in the movement of the left ankle, his working capacity has decreased significantly, therefore, the Tribunal has erred in granting appropriate compensation.

5. On the other hand, the learned counsel representing the respondent No.4-insurance company submits that no evidence has been led by the appellant to prove that there was any loss of earning.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. Admittedly, the appellant was working as an unskilled worker, who suffered permanent disability to the extent of 18% on account of 60% decrease in the motion of his left ankle. His earning capacity has been adversely impacted on account of his permanent disability. Hence, the Tribunal has erred in refusing to grant compensation for loss of earning. The accident took place on 17.11.2015 and the appellant was 45 years of age at the time of accident. The peculiar circumstances of the case require that the

appellant shall be granted some amount for permanent disability which is assessed 50,000/-. Furthermore, as an unskilled worker, he will be earning minimum @ ₹10,000/- per month. On account of the injuries, his earning capacity is reduced at least to the extent of 1/4th because unskilled worker without proper movement of the ankle would not be in a position to perform physical work to his full strength. Hence, the loss of income is assessed at 25%. Consequently, the loss of earning is ₹2,500/- per month. On account of future prospects, he shall be entitled to increase @ 25%. Keeping in view the age of the appellant, the multiplier of 14 shall be applicable.

8. Keeping in view the aforesaid facts and discussion, the present appeal is allowed. The enhanced amount of compensation is worked out as under:-

Sr. No.	Heads under which the amount awarded	Amount awarded by the Tribunal (In ₹)	Amount awarded by the High Court (In ₹)
A)	Monthly Income	NIL	2,500.00
B)	Future Prospects	NIL	625.00 (25% of the monthly income assessed)
C)	Income assessed after adding future prospects	NIL	3,125.00
D)	Amount assessed after applying multiplier of 14	NIL	5,25,000.00 (3,125x12x14)
E)	Pain and Sufferings	20,000.00	20,000.00
F)	Special Diet	5,000.00	5,000.00
G)	Medical Expenses	34,821.00	34,821.00
H)	Amount for permanent disability	NIL	50,000.00
I)	Total compensation awarded	59,821.00 (E+F+G)	6,34,821.00 (D+E+F+G+H)
J)	Amount of compensation enhanced by this Court	5,75,000/- (6,34,821 – 59,821)	

9. The appellant shall be entitled to additional compensation of

₹5,75,000/- apart from what has been awarded by the Tribunal along with the interest @ 7% per annum from the date of filing of the claim petition till its realization.

(Anil Kshetarpal)
Judge

February 05, 2024
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No