

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****127****FAO-767-2024 (O&M) and
XOBJC-30-2024
Date of Decision : 22.01.2025**

Rekha

....Appellant

VERSUS

Sandeep and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mukesh Yadav, Advocate for the appellant.

Mr. Varun Sharma, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)**CM-572-CII-2025**

1. This is an application for preponing the date of hearing in the main case.
2. Learned counsel appearing on behalf of respondent No.3 states that he has no objection if the present application is allowed and the date of hearing in the main appeal alongwith the cross-objections is preponed.
3. For the reasons stated in the application, the same is allowed. With the consent of learned counsel for the parties, the main appeal alongwith cross-objections is taken on Board today itself.

FAO-767-2024 (O&M) AND XOBJC-30-2024

4. The appeal being FAO-767-2024 has been preferred by the claimant-appellant while the cross-objections being XOBJC-30-2024 have been filed by Insurance Company challenging the award dated 27.09.2023 passed by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal') whereby an amount of Rs.28,61,780/- was awarded as

compensation to the claimant-appellant.

5. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

6. In the present case the Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.8,500/-
2	Loss of income on account of 85% disability	Rs.7,225/-
3	Future prospects @ 40%	[Rs.7,225 + 2890] = Rs.10,115/-
4	Annual loss of income	[Rs.10,115 x 12] = Rs.1,21,380/-
5	Multiplier of 16	[Rs.1,21,380 x 16] = Rs.19,42,080/-
6	Compensation on account of disfigurement of body	Rs.2,00,000/-
7	Mental agony, pain and suffering	Rs.2,00,000/-
8	Prosthetic Limb	Rs.5,00,000/-
9	Medical Bills	Rs.19,700/-
	Total Compensation	Rs.28,61,780/-
	Interest	7.5% per annum

7. Learned counsel for the claimant-appellant would contend that the claimant-appellant was 34 years of age at the time of the accident, which took place on 19.03.2022. In the said accident the claimant-appellant sustained multiple grievous injuries as a result of which her left leg upto the knee was amputated. Learned counsel for the claimant-appellant would further contend that the amount of compensation awarded by the Tribunal is on the lower side inasmuch as the Tribunal has assessed the income of claimant-appellant as Rs.8,500/- per month. The claimant-appellant was working as a labourer and the minimum wages for an unskilled worker

prevailing at the relevant point of time were Rs.10,243/- per month and hence her income ought to have been assessed as Rs.10,243/- per month. Further, the amount awarded under the head pain and suffering is also on the lower side and further no amount has been awarded towards attendant charges, special diet, transportation charges and loss of amenities of life and further the amount awarded by the Tribunal for the prosthetic limb is also on the lower side.

8. *Per contra*, the learned counsel for the respondent No.3- Insurance Company/cross-objector has vehemently argued that the disability of the claimant-appellant has wrongly been treated as 85%. Rather her functional disability ought to have been treated to the extent of 50% inasmuch as the disability was only regarding her left leg. He further contends that the compensation awarded for the artificial limb and under the conventional heads is also on the higher side. It has further been contended that the rate of interest @ 7.5% per annum awarded by the Tribunal is also on the higher side.

9. Heard.

10. In the present case the claimant-appellant stepped into the witness-box as PW-1 and testified that due to the accident she suffered severe injuries and was admitted in General Hospital, Sonipat from where she was referred to PGIMS, Rohtak and she was undergoing treatment there. She further testified that she was diagnosed as permanently disabled and her disability certificate (Ex.P2) has been proved on record by PW-3 Bhupender, Clerk from the concerned hospital, as per which her case was of locomotive disability and diagnosis in her case was above knee left transfemoral

amputation upto 1/3rd thigh leading to permanent disability to the extent of 85%. The Insurance Company/cross-objector did not lead any evidence to the contrary. The claimant-appellant in the present case was working as a labourer and due to amputation of her left leg upto the knee she would not be in a position to work as a labourer and hence this Court deems it fit to maintain the finding recorded by the Tribunal.

11. Further, the Tribunal has assessed the monthly income of the claimant-appellant as Rs.8,500/- per month. The claimant-appellant was working as a labourer and admittedly, at the relevant point of time, the minimum wages for an unskilled worker were Rs.10,243/- per month and hence the income of the claimant-appellant is assessed as Rs.10,243/- per month.

12. Since there is no challenge to the applicability of multiplier and grant of future prospects as awarded by the Tribunal, the same are accordingly maintained. However, the Tribunal has not specified any amount towards attendant charges in the impugned award. Although, there is nothing on record to specify the period for which the claimant-appellant remained admitted in the hospital, however, keeping in view the extent of disability suffered by her, she must have remained under treatment at least for a month and hence this Court deems it appropriate to grant attendant charges for a period of one month @ Rs.10,243/- as per the minimum wages assessed above.

13. Further, the amount of Rs.2,00,000/- awarded under the head mental agony as well as pain and suffering awarded by the Tribunal is on the lower side and no amount has been specified towards special diet and

transportation charges. Keeping in view the nature of disability, this Court deems it appropriate to enhance the amount awarded under the head pain and suffering to Rs.2,50,000/- and to award an amount of Rs.25,000/- towards special diet and Rs.20,000/- towards transportation charges. An amount of Rs.5,00,000/- is also awarded towards loss of amenities of life.

14. Further, there is no merit in the argument of learned counsel for the Insurance Company/cross-objector that the amount awarded by the Tribunal for the prosthetic limb is on the higher side. Rather, in the opinion of this Court keeping in view the nature of disability of the claimant-appellant, the amount of Rs.5,00,000/- awarded by the Tribunal for the prosthetic limb is on the lower side. The Delhi High Court in the case of **Reliance General Insurance Co. Ltd. vs. Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602]** has awarded an amount of Rs.7,00,000/- towards cost of artificial limb in the year 2017. In the present case, the accident took place in the year 2022 and taking a cue from the judgment in the case of **Rohit Kumar** (supra), this Court deems it appropriate to enhance the amount to Rs.10,00,000/- towards the cost of the prosthetic limb and future maintenance thereof.

15. The amounts of Rs.2,00,000/- and Rs.19,700/- awarded by the Tribunal towards disfigurement of body and medical expenses respectively are maintained. There is also no merit in the argument of learned counsel for the Insurance Company/cross-objector that the interest awarded by the Tribunal is on the higher side.

16. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.10,243/-

2	Annual Income	[Rs.10,243 x 12] = Rs.1,22,916/-
3	Loss of annual Income on account of 85% permanent disability	Rs.1,04,479/-
4	Future prospects @ 40%	[Rs.1,04,479 + 41,792] = Rs.1,46,271/-
5	Loss of income after applying multiplier ‘16’	[Rs.1,46,271 x 16] = Rs.23,40,336/-
6	Loss of Amenities of life	Rs.5,00,000/-
7	Pain and suffering	Rs.2,50,000/-
8	Special Diet	Rs.25,000/-
9	Transportation charges	Rs.20,000/-
10	Prosthetic limb	Rs.10,00,000/-
11	Attendant charges	Rs.10,243/-
12	Compensation on account of disfigurement of body	Rs.2,00,000/-
13	Medical expenses	Rs.19,700/-
	Total Compensation	Rs.43,65,279/-

17. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

18. In view of the above discussion, the appeal being FAO-767-2024 filed by the claimant-appellant is allowed and the cross-objections being XOBJC-30-2024 filed by the Insurance Company stands dismissed. The award passed by the Tribunal is modified in the above terms. Pending applications, if any, also stand disposed off.

22.01.2025
jk

(ALKA SARIN)
JUDGE

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