



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

106

FAO-2322-1997

Date of decision : 11.03.2025

Rajinder Kumar

..... Appellant

versus

Kirpal Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Satwant Singh, Advocate
for the appellant.

Mr. Pardeep Goyal, Advocate and
Mr. Akhil Saini, Advocate
for respondent No.3.

PANKAJ JAIN, J. (ORAL)

1. Dissatisfied claimants seek enhancement of compensation.
2. Claimant Rajinder Kumar filed MACT Case No.63 of 1993 seeking compensation on account of injury sustained by him in a motor vehicular accident dated 21.06.1993. The claimant claimed that he suffered injuries on right eye brow, left side of head, left side of chest, fracture of ribs of right side and dislocation of shoulder bone, for which he remained hospitalized for long time. He was able to prove his hospitalization for 20 days and that he was disabled on account of restriction of movement of right shoulder to the tune of 18%. MACT granted an amount of Rs.12,000/- on account of medical expenses on actual basis. Damages for pain and suffering were assessed @



Rs.5,000/-. MACT further granted him an amount of Rs.25,000/- on account of permanent disability.

3. Counsel for the claimant submits that the claimant was working as a vegetable vendor when he suffered shoulder dislocation. The movement of his shoulder was restricted, which has caused him loss of income. His functional movement has been considerably restricted and he is not able to pull his cart. MACT instead of considering his functional disability, has taken the permanent disability of 18% as functional disability as well. Counsel further submits that instead of granting lump sum compensation, Tribunal ought to have calculated compensation applying multiplier method.

4. Having heard counsel for the parties, this Court finds that the compensation computed by the Tribunal needs to be modified. The injured was working as a vegetable vendor. The accident occurred in the year 1993. His income is assessed @ Rs.1,000/- per month. Keeping in view his age of 48 years, 25% needs to be added as future prospects. Multiplier of 13 needs to be applied. Counsel for the appellant-claimant is right in contending that a vegetable vendor having been rendered disabled to the extent of 18% on account of restricted movement in shoulder, Tribunal ought to have assessed his functional disability and assessed loss accordingly. Keeping in view permanent disability of 18%, functional disability of the insured-claimant is assessed at 35%. Multiplier of 13 will be applicable. Thus, loss of earning due to disability shall be $1250 \times 12 \times 13 \times 35 / 100 =$



Rs.68,250/-

4. The claimant remained hospitalized for about 20 days. It is not expected that he shall have gone for his vocation at the very next day after discharge. Loss of earning qua 3 months is assessed as Rs.1000x3 = Rs.3000/-. Medical expenses of Rs.12,000/- have been granted on actual basis. The same needs no modification. Claimant is further held entitled to attendant charges which are assessed as Rs.5,000/-. For special diet and transportation, he is awarded a sum of Rs.7,500/-. Rs.15,000/- is granted for pain and suffering and Rs.15,000/- for loss of amenities. Impugned award is modified accordingly.

5. Disposed off, as such.

(PANKAJ JAIN)
JUDGE

11.03.2025
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No