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

FAO-369-2011 (O&M)

Date of Decision : 17.03.2025

Munfez & Anr

... Appellant(s)

Versus

Vinod Kumar & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate for the appellants.

Mr. Arjun Attri, Advocate for respondent Nos.1 and 2.

Mr. Rohit Kataria, Advocate for
Ms. Anamika Mehra, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

CM-1244-CII-2011

1. This is an application for condonation of delay of 91 days in filing the appeal.

2. For the reasons stated in the application, delay of 91 days in filing the appeal is condoned. CM stands disposed off.

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3. The present appeal has been preferred by the injured claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Nuh (hereinafter referred to as 'Tribunal') vide the impugned award dated 03.05.2010 in a motor vehicle accident which occurred on 10.08.2008.

4. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

5. The Tribunal in the present case had awarded the following compensation :

Appellant No.1 – Munfez		
Sr. No.	Heads	Compensation Awarded
1	On account of permanent 20% disability as per Disability Certificate Ex.P4	₹40,000/-
2	On account of expenses on treatment, medicines, special diet and transportation etc.	₹5,000/-
3	On account of loss of earning during hospitalization and recovery while taking monthly income of petitioner as ₹3,500/-	₹25,000/-
4	On account of pain, agony, sufferings	₹10,000/-
5	On account of loss of future earning and enjoyment of life	₹25,000/-
	Total	₹1,05,000/-
	Interest	6% per annum

Appellant No.2 – Wasid		
Sr. No.	Heads	Compensation Awarded
1	On account of permanent 20% disability as per Disability Certificate Ex.P4	₹40,000/-
2	On account of expenses on treatment, medicines, special diet and transportation etc.	₹5,000/-
3	On account of loss of earning during hospitalization and recovery while taking monthly income of petitioner as ₹3,500/-	₹25,000/-
4	On account of pain, agony, sufferings	₹10,000/-
5	On account of loss of future earning and enjoyment of life	₹25,000/-
	Total	₹1,05,000/-
	Interest	6% per annum

6. Learned counsel for the injured claimant-appellants would contend that though the Tribunal has rightly taken the disability of both the injured claimant-appellants @ 20% permanent in nature, however, their

income as assessed by the Tribunal is on the lower side. The learned counsel would further contend that after assessing the income of the claimant-appellants as per the minimum wages prevalent at the time of the accident, the Tribunal ought to have applied a multiplier method besides addition of 40% towards future prospects and in this regard the learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]**. It is further the contention of the learned counsel that the amount awarded by the Tribunal under the non-pecuniary heads is also on the lower side.

7. *Per contra*, the learned counsel for respondent Nos.1 and 2 as well as respondent No.3-Insurance Company have vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no further scope of any enhancement.

8. I have heard the learned counsel for the parties.

9. In the present case the respondents have not filed any appeal against the impugned award. Since the disability of both the injured claimant-appellants @ 20% permanent in nature is not in dispute, the same is accordingly maintained.

10. Hon'ble the Supreme Court in the case of **Pappu Deo Yadav** (supra) has held as under :

“12. In view of the above decisive rulings of this court, the High Court clearly erred in holding that compensation for loss of future prospects could not be awarded. In addition to loss of future earnings (based on a determination of the income at the time of accident), the appellant is also entitled to compensation for loss of

future prospects, @ 40% (following the Pranay Sethi principle).

13. The factual narrative discloses that the appellant, a 20-year-old data entry operator (who had studied up to 12th standard) incurred permanent disability, i.e. loss of his right hand (which was amputated). The disability was assessed to be 89%. However, the tribunal and the High Court re-assessed the disability to be only 45%, on the assumption that the assessment for compensation was to be on a different basis, as the injury entailed loss of only one arm. This approach, in the opinion of this court, is completely mechanical and entirely ignores realities. Whilst it is true that assessment of injury of one limb or to one part may not entail permanent injury to the whole body, the inquiry which the court has to conduct is the resultant loss which the injury entails to the earning or income generating capacity of the claimant. Thus, loss of one leg to someone carrying on a vocation such as driving or something that entails walking or constant mobility, results in severe income generating impairment or its extinguishment altogether. Likewise, for one involved in a job like a carpenter or hairdresser, or machinist, and an experienced one at that, loss of an arm, (more so a functional arm) leads to near extinction of income generation. If the age of the victim is beyond 40, the scope of rehabilitation too diminishes. These individual factors are of crucial importance which are to be borne in mind while determining the extent of permanent disablement, for the purpose of assessment of loss of earning capacity.”

11. Both the injured claimant-appellants in their statements before the Tribunal have testified that at the time of the accident they were doing labour work. Claimant-appellant No.1 Munfez sustained fractures on his left

foot and neck of left humerus. As per the statement of PW1 Dr S.K.Batta who proved the disability certificate, the claimant-appellant No.1 Munfez was suffering from 20% disability on account of united fracture neck of left humerus with painful limitation of shoulder movements and united fracture of 5th metatarsal proximal end and there was constant pain in left foot while walking. In view of the statement made by the doctor the claimant-appellant No.1 Munfez, who was working as a labourer, would be entitled to grant of compensation by applying a multiplier method.

12. Claimant-appellant No.2 Wasid had sustained fractures in his right leg tibia fibula bone. PW1 Dr S.K.Batta who proved the disability certificate, stated that he was suffering from 20% disability on account of mal-united fracture both bone right leg-lower with posterior bowing and lot of callus with muscle adhesion. It was further stated that there was painful limited movement of ankle and constant pain in the right leg while walking. In view of the statement made by the doctor the claimant-appellant No.2 Wasid, who was working as a labourer, would be entitled to grant of compensation by applying a multiplier method.

13. The accident had taken place on 10.08.2008 and at that time the minimum wages for an unskilled worker in the State of Haryana were ₹3,664/- per month. Hence, the income of both the injured claimant-appellants is assessed as ₹3,664/- per month. Further, taking a cue from the judgment of the Hon'ble Supreme Court in the case of **Pappu Deo Yadav** (supra), a multiplier method is to be applied in the present case. Keeping in view the age of the claimant-appellants, a multiplier of 18 would be applicable. Further, the claimant-appellants would be also entitled to addition of 40% towards the future prospects.

14. Coming to the compensation under the non-pecuniary heads, Dr. S. K. Batta, stepped into witness box as PW-1 and has testified that the injured claimant-appellant No.2 – Wasid – was admitted in their hospital on 10.08.2008 and was having fracture of both bones right lower 4th with a lacerated wound over the fracture and remained admitted in the hospital upto 19.08.2008 and he had proved on record his disability certificate as Ex.P3. This witness further testified that on the same day the injured claimant-appellant No.1 – Munfez – was also admitted in their hospital, who was having fracture 5th metatarsal left foot and he also remained admitted upto 19.08.2008 and proved on record his disability certificate as Ex.P4. Keeping in view the disability suffered by both the injured claimant-appellants to the extent of 20%, in the opinion of this Court, the amount awarded by the Tribunal under the non-pecuniary heads is on lower side. Hence, both the injured claimant-appellants are awarded an amount of ₹2,00,000/- each towards pain and suffering and ₹50,000/- each towards special diet/attendant charges/transportation. An amount of ₹25,000/- awarded by the Tribunal towards treatment expenses is maintained. Accordingly, the reworked compensation is as under :

Appellant No.1 – Munfez		
Sr.No.	Heads	Compensation Awarded
1	Monthly income	₹3,664/-
2	Annual Income	[₹3,664 x 12] = ₹43,968/-
3	Loss of annual Income on account of 20% permanent disability	₹8,794/-
4	Loss of income after applying multiplier '18'	[₹8,794 x 18] = ₹1,58,292/-
5	Future prospects @40%	[₹1,58,292 + ₹63,317] = ₹2,21,609/-
6	Pain and suffering	₹2,00,000/-

7	Special diet/attendant charges/ transportation	₹50,000
8	Medical treatment	₹25,000/-
	Total Compensation	₹4,96,609/-

Appellant No.2 – Wasid		
Sr.No.	Heads	Compensation Awarded
1	Monthly income	₹3,664/-
2	Annual Income	[₹3,664 x 12] = ₹43,968/-
3	Loss of annual Income on account of 20% permanent disability	₹8,794/-
4	Loss of income after applying multiplier ‘18’	[₹8,794 x 18] = ₹1,58,292/-
5	Future prospects @ 40%	[₹1,58,292 + ₹63,317] = ₹2,21,609/-
6	Pain and suffering	₹2,00,000/-
7	Special diet/attendant charges/ transportation	₹50,000
8	Medical treatment	₹25,000/-
	Total Compensation	₹4,96,609/-

15. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the claim petition till realization of the entire amount.

16. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

17.03.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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