



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-2106-2013 (O&M)
Date of Decision : 18.02.2025

JarinaAppellant

VERSUS

Kaushal Singh @ Komal Singh @ Dilbagh and OthersRespondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vicky Sharma, Advocate for the appellant.
Mr. Rakesh Gupta, Advocate for respondent Nos.3 and 4.
Mr. V.K. Garg, Advocate for respondent Nos.5 and 6.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellant for enhancement of the compensation granted by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as ‘the Tribunal’) vide award dated 07.02.2013.
2. 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.
3. In the present case the Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Compensation of Rs.2,000/- for every 1% disability	[Rs.2,000 x 80] = Rs.1,60,000/-
2	Medical Bills	[Rs.15,165 + 9,801 + 3,359] = Rs.28,325/-

3	Pain and mental agony	Rs.15,000/-
4	Attendant Charges	Rs.10,000/-
5	Special diet	Rs.10,000/-
	Total Compensation	Rs.2,23,325/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellant would contend that the claimant-appellant was 43 years of age at the time of the accident, which took place on 01.08.2008. In the said accident the claimant-appellant sustained multiple grievous injuries as a result of which her right upper arm was amputated at the level of shoulder joint. She was got admitted in Civil Hospital, Rajpura from where she was referred to Rajindra Hospital, Patiala, where she remained admitted from 01.08.2008 to 03.09.2008. 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 not assessed the income of claimant-appellant and awarded Rs.1,60,000/- @ Rs.2000/- for every 1% of disability. The claimant-appellant was earning Rs.10,000/- from dairy farming and tailoring work. Further, the amount awarded under the heads pain and suffering, attendant charges and special diet is also on the lower side and further no amount has been awarded towards transportation charges, loss of amenities of life and for the prosthetic limb. Learned counsel for the claimant-appellant has relied upon judgments of the Hon'ble Supreme Court in the cases of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** and that of the Delhi High Court in case of **Reliance General Insurance Co. Ltd. vs. Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602]**.

5. *Per contra* learned counsel for respondent No.5-Insurance Company has contended that sufficient amount of compensation has already been awarded and there was no scope of any further enhancement.

6. I have heard learned counsel for the parties.

7. In the present case the claimant-appellant was 43 years of age and as a result of the accident her right upper arm was amputated and her permanent disability was assessed as 80%, which is not in dispute, and hence the same is maintained. Though it has been pleaded by the claimant-appellant that she was doing the dairy farming and tailoring work, however, in the absence of any evidence the minimum wage for an unskilled worker, which was Rs.3,200/- per month, is assessed as the monthly income of the claimant-appellant. Keeping in view the fact that the claimant-appellant was 43 years of age and she had suffered 80% disability, a multiplier method ought to have been applied. 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.”

8. In view of the law laid down in the case of **Pappu Deo Yadav** (supra), the Tribunal should have applied a multiplier method keeping in view the functional disability of the claimant by assessing her income according to the minimum wages prevalent at the relevant point of time. At the time of the accident the claimant was 43 years of age and hence a multiplier of ‘14’ would be applicable and an addition of 25% is also to be made towards loss of future prospects.

9. The Tribunal has not awarded any amount towards prosthetic limb. Taking a cue from the judgment in the case of **Rohit Kumar** (supra) wherein an amount of Rs.7,00,000/- was awarded towards cost of the artificial limb in the year 2017, I deem it appropriate to award an amount of **Rs. 10,00,000/-** towards costs of the artificial limb and future maintenance of the said artificial limb. The amount of Rs.15,000/- awarded by the Tribunal under the head pain and suffering is on the lower side and the same is enhanced to **Rs.2,00,000/-**. The amount of Rs.10,000/- awarded under the head special diet is on the lower side and the same is enhanced to **Rs.20,000/-**. An amount of **Rs.5,00,000/-** is also awarded towards loss of amenities of life. The Tribunal has not awarded any amount towards transportation charges. An amount of **Rs.20,000/-** is awarded towards transportation charges. The amount already awarded by the Tribunal towards medical bills and attendant charges is maintained.

10. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income	[Rs.3,200 x 12] = Rs.38,400/-
2	Loss of annual Income on account of 80% permanent disability	Rs.30,720/- (Rs.38,400 - 7,680)
3	Future prospects @ 25%	[Rs.30,720 + 7,680] = Rs.38,400/-
4	Multiplier of 14	[Rs.38,400 x14] = Rs.5,37,600/-
5	Pain and suffering	Rs.2,00,000/-
6	Special Diet	Rs.20,000/-
7	Medical Bills as allowed by the Tribunal	Rs.28,325/-
8	Transportation charges	Rs.20,000/-
9	Loss of amenities of life	Rs.5,00,000/-
10	Costs of Artificial limb and its maintenance in future	Rs.10,00,000/-
11	Attendant charges as awarded by the Tribunal	Rs.10,000/-
	Total Compensation	Rs.23,15,925/-

11. 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.

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

18.02.2025
jk

(ALKA SARIN)
JUDGE

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