



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

FAO-3120-2013 (O&M)
Date of Decision: March 04, 2025

Suresh Kumar Bhola

...Appellant

VERSUS

Sher Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.R.S.Mamli, Advocate
for the appellant.

Mr.Sanjeev Kodan, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of injuries sustained by him, in a motor vehicular accident.

Vide impugned Award, learned Tribunal had decided three claim petitions, relating to the injuries caused to the appellant-claimant Suresh Kumar Bhola and two other persons.

Be it noted that, on appraisal of the evidence on record, it was concluded by learned Tribunal that the accident had taken place, due to rash and negligent driving of truck bearing registration No.HR-67-4327, driven by respondent No.1-Sher Singh and the same resulted into injuries, on the



person of Suresh Kumar Bhola-present appellant.

While holding the claimant to be 47 years old, at the relevant time and also taking him to be indulging in job of brass, aluminium and steel parts of utensils and taking into consideration the income tax return for the financial year 2009-2010 (assessment year 2010-2011) Ex.PW15/A, the taxable income was considered as Rs.1,54,750/-. Taking into consideration the disability certificate Ex.PW12/A, wherein, it was stated that it was 75% permanent disability, on account of amputation of left lower limb through knee, learned Tribunal had taken the disability to be 50%. Considering the earnings of deceased as Rs.12,895/- per month, the loss of dependency was worked upon by applying the multiplier of '13' i.e. $\text{Rs.12,895-} \frac{1}{2} \times 12 \times 13 = \text{Rs.10,83,180/-}$ (**though as per the calculation, amount comes to be Rs.10,05,810/-**). Besides the same, another amount of Rs.25,000/- was granted, on the count of 'pain and suffering' and Rs.20,000/- was granted towards 'attendant' and on account of 'special rich diet'. Under the head of 'transportation', another amount of Rs.5,000/- was granted and Rs.10,000/- was granted towards 'loss of amenities and loss of expectation of life'. Various bills of medical expenditure had also been proved in evidence, on account of which, an amount of Rs.82,989/- was granted. Thus, in total, compensation to the extent of Rs.11,48,799/- was granted.

Definitely, the aforesaid 'work on' of the compensation, do call for re-determination.

Before proceeding further, it is pertinent to mention that consistently, the Courts have held that compensation awarded, has to be '**just**' compensation, which is adequate compensation and the Award must be



just that-'**no less and no more**'. The Courts ought to make a genuine attempt to help restore the self-dignity of such claimant, who had sustained injuries, by awarding '**just compensation**'.

The impact of the injury, relating to the source to earnings of the claimant, ought to be taken into consideration.

The test for determining the effect of permanent disability, on future earning capacity involves three steps, as was laid down in ***Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343*** and reiterated in ***Chanappa Nagappa Muchalagoda vs. Divisional Manager, New India Insurance Company Limited, 2020 (1) SCC 796***, which are as herein given:-

“13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions, so that he continues to earn or can continue to earn his livelihood.”

In this backdrop, now adverting to the case in hand. It is pertinent to mention that from the income tax return Ex.PW15/A, it is evident that date of birth of the claimant is 01.01.1963 and so calculating, on the date of accident, he is established to be 47 years old. The claimant was carrying on the work of brass, aluminium and steel parts of utensils. Even though, he had stated to be self-employed, but however, in his affidavit



Ex.PW9/A, he had stated about himself to be doing technical job and earning Rs.15000-20,000/- per month. Though, learned Tribunal, while taking into consideration the income tax return, has worked upon the monthly income as Rs.12,895/-, but however, this income tax return was filed on 18.05.2010 i.e. after the taking place of the accident. But may it be so, even then, very conveniently, considering the indulgence of the claimant in skilled work, his earnings be taken as Rs.10,000/- per month.

The disability certificate has been duly proved on record, by way of examination of Dr.Anuj Mangla, who stepped into witness box as PW-12 and who was member of the board, which made the assessment of the disability. He has categorically stated that it was a case of amputation of left lower limb through knee and had assessed the permanent disability to the extent of 75% and also proved the disability certificate as Ex.P12/A.

However, the functional disability has been taken as 50% by learned Tribunal. There is no discussion given for this reduction in percentage, much less, any consideration of the nature of permanent functional disability, suffered by the appellant-claimant. The extent of physical functional disability, in the facts of the case, has to be considered, in the manner, so as to grant 'just and proper' compensation to the claimant, towards loss of future earnings.

Considering the same, it has to be seen, as to whether, there is complete loss of earnings and as such, the earning capacity of the claimant was completely negated or it was substantially reduced. Definitely, there is disability relating to the left lower limb, but however, this fact has to be considered, in view of the vocation followed by the claimant. He is a skilled



worker, who indulged in brass, aluminium and steel parts of utensils and looking at the same, the manual work must be required to be done by the claimant, while standing for long period or on account of long sitting. With the kind of disability suffered by the appellant-claimant, there is bound to be reduction of body functionality, to some extent. In the light of the same, in modest estimate, the reduction of body functionality due to disability, can be taken as 60%.

Considering the earnings of the claimant as Rs.10,000/- per month, as observed aforesaid and considering the age of the appellant-claimant to be 47 years, at the relevant time, addition of 25%, on the count of 'future prospects' ought to be made, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, and thus, the total earnings comes to be $\text{Rs.}10000+2500=\text{Rs.}12,500/-$ per month, annual whereof, comes to be $\text{Rs.}12500 \times 12 = \text{Rs.}1,50,000/-$.

Considering the age of appellant-claimant, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the suitable and appropriate multiplier, to be applied is '13' and while considering the disability to be 60%, the loss of earnings is assessed as $\text{Rs.}1,50,000 \times 13 \times 60 / 100 = \text{Rs.}11,70,000/-$.

Looking at the injuries sustained, even the compensation granted on the count of 'pain and suffering' is meagre. Soon after the accident, on account of injuries sustained, apart from having become physically invalid, due to amputation of left lower limb, the claimant must have passed through a very traumatic state of mind, considering his career having jeopardised, apart from the physical ailment. Thus, considering the



same, the compensation awarded on the count of 'pain and suffering' stands enhanced to **Rs.1,00,000/-**.

During the period of hospitalization and some time thereafter, the claimant must have spent some amount on transportation. An amount of Rs.5,000/- granted by learned Tribunal, on the count of 'transportation', is on lower side and as such, the same stands enhanced to **Rs.20,000/-**.

Obviously, during the period of treatment and some time thereafter, the appellant-claimant must have been put on special rich diet, for the healing process. On this count also, the compensation is enhanced to **Rs.30,000/-** from Rs.20,000/-.

Taking into consideration the kind of injuries sustained by the claimant, it is quite obvious, he must have been looked after, by his family also, who would have taken care of him by diverting their time from the gainful employment for some period of time and in the minimum, some time thereafter, till he adept to skill of self-dependence. But definitely, for certain aspects of life, there will be need for 'assisted living' in future and thus, on the count of 'attendant charges', the compensation stands enhanced from Rs.20,000/- to **Rs.50,000/-**.

Considering the loss of left lower limb and more particularly, considering the testimony of PW-12 Dr.Anuj Mangla, who was member of the board of doctors, who assessed the disability, had deposed that patient may get artificial limb process. Considering the same, future need of the prosthetics has to be taken into consideration and on this count, an amount of **Rs.2,00,000/-** is granted.

Another amount of **Rs.82,989/-** is granted, as awarded by



learned Tribunal, on the basis of the medical bills, proved in evidence.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant Suresh Kumar Bhola, is re-computed, as herein given:-

1.	Loss of earning	Rs.11,70,000
2.	Pain and suffering	Rs.1,00,000/-
3.	Transportation charges	Rs.20,000/-
4.	Special diet	Rs.30,000/-
5.	Attendant charges	Rs.50,000/-
6.	Prosthetic	Rs.2,00,000/-
7.	Medical expenses	Rs.82,989/-
	Total	Rs.16,52,989/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.16,52,989-11,48,799=Rs.5,04,190/-**. On the enhanced amount of compensation, i.e. **Rs.5,04,190/-**, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

Accordingly, the impugned Award stands modified, to the extent, as indicated aforesaid. All the remaining terms, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid observations, the present appeal stands allowed.

March 04, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No