



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4002-2014 (O&M)
Date of Decision : 21.04.2025

Bikram Singh ... Appellant(s)
Versus
Naresh Kumar & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Man Mohan, Advocate for the appellant.
Mr. Diwan S. Adlakha, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the injured claimant-appellant challenging the award dated 07.10.2013 passed by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as ‘Tribunal’) aggrieved by the quantum of compensation which has been awarded.
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. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Loss of income	₹40,000/-
2	Transportation charges	₹10,000/-
3	Pain and suffering, Special diet.	₹30,000/-
4	Medical expenses	₹1,40,000/-
5	Total Compensation	₹2,20,000/-
	Interest	7.5% per annum

4. Learned counsel for the injured claimant-appellant would contend that the claimant-appellant was 50 years of age at the time of the accident and after the accident, he was firstly taken to General Hospital, Sector 6 Panchkula and then was referred to GMCH, Sector 32, Chandigarh from where he was taken to Raffles Hospital, Sector 14, Panchkula. He remained under treatment w.e.f. 12.09.2012 to 27.09.2012. The learned counsel would further contend that the claimant-appellant has suffered disability to the extent of 35% in relation to the lower limb of his body, as is apparent from the Medical Disability Certificate (Ex.P40) which stands proved on record by PW-3 Dr. Umesh Modi, Senior Medical Officer, General Hospital, Sector 6, Panchkula. The learned counsel would further contend that the compensation awarded by the Tribunal is on the lower side inasmuch the disability of the claimant-appellant has affected his working capacity and that the Tribunal ought to have applied a multiplier method after assessing income of the claimant-appellant according to the minimum wages prevailing at the time of accident, which were ₹4,967/- per month, besides making addition @ 10% towards future prospects. The learned counsel for the claimant-appellant would further contend that the amounts awarded by the Tribunal under the non-pecuniary heads are also on the lower side which deserve to be enhanced.

5. Per contra, the learned counsel for respondent No.3- Insurance Company would contend that the disability of the injured claimant-appellant has not in any manner affected his working capacity and that since sufficient amount has already been awarded as compensation in the present case, there is no scope for further enhancement.

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

7. In the present case, after the accident, which took place on 12.09.2012, the claimant-appellant was firstly taken to General Hospital, Sector 6, Panchkula, from where he was referred to GMCH, Sector 32, Chandigarh and then for further treatment to Raffles Hospital, Sector 14, Panchkula. He remained under treatment w.e.f. 12.09.2012 to 27.09.2012. The claimant-appellant has examined Dr. Umesh Modi, Senior Medical Officer as PW3 who testified that due to the accident the claimant-appellant has suffered disability to the extent of 35% by proving on record Medical Disability Certificate as Ex.P40. This witness further testified that the claimant-appellant was an operated case of compound fracture of both bones of left leg and fracture of pelvis with complaints of pain, stiffness of hip and ankle with inability to squat and sit cross legged with shortening of one inch. Thus, keeping in view the testimony of PW3 - Dr. Umesh Modi, SMO - the functional disability of the claimant-appellant qua his body is assessed to the extent of 20%. The claimant was admittedly working in a brick kiln and due to the disability his working capacity would be effected.

8. Hon'ble the Supreme Court in the case of **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** 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.”

9. In view of the law laid down in the case of **Pappu Deo Yadav** (supra) and keeping in view the functional disability suffered by the injured claimant-appellant, a multiplier method is applicable in the present case.

10. The claimant-appellant was admittedly working as a labourer in the brick kiln and the minimum wages for an unskilled worker at the time of accident in the State of Haryana were ₹4,967/- per month and hence this Court deems it appropriate to assess income of the claimant appellant as ₹4,967/- per month.

11. At the time of the accident the claimant-appellant was 50 years of age and, hence, a multiplier of '13' would be applicable and an addition of 10% is also to be made towards loss of future prospects. No amount has been awarded towards attendant charges. Since the claimant-appellant remained under treatment w.e.f. 12.09.2012 to 27.09.2012 and was also operated upon there, he would also be entitled to attendant charges at least for one month. Accordingly, this Court deems it appropriate to award an amount of ₹4,967/- towards attendant charges as per the minimum wages at the relevant time. Further, the amount of ₹30,000/- awarded by the Tribunal under the head pain and suffering is on the lower side and the same is enhanced to ₹1,00,000/-. The amounts of 10,000/- and ₹1,40,000/- already awarded by the Tribunal towards transportation charges and medical bills are maintained. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income	[₹4,967 x 12] = ₹59,604/-
2	Loss of annual Income on account of 20% functional disability	₹11,920/- (₹59,604 – 47,684)
3	Future prospects @ 10%	[₹11,920 + 1,192] = ₹13,112/-
4	Multiplier of 13	[₹13,112 x 13] = ₹1,70,456/-
5	Pain and suffering	₹1,00,000/-
6	Transportation charges	₹10,000/-
8	Attendant charges	₹4,967/-
9	Medical Bills	₹1,40,000/-
	Total compensation	₹4,25,423/-

12. 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.

13. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided on 18.03.2025]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account of the claimant-appellant within six weeks from today. The particulars of the bank account alongwith the requisite documents in support thereof shall be furnished by the claimant-appellant to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

14. 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.

21.04.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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