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

FAO-5930-2013 (O&M)

Date of Decision : 07.02.2025

Manpreet Singh

... Appellant(s)

Versus

Suraj Bhan & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. K.B. Raheja, Advocate for the appellant.

Mr. Shalender Mohan, Advocate for respondent Nos.1 and 2.

Mr. Pardeep Kumar, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellant against the impugned award dated 25.04.2013 passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') whereby an amount of ₹12,64,300/- was awarded as compensation to the claimant-appellant.

2. Brief facts relevant to the present *lis* are that on 10.05.2010 the claimant-appellant was coming from village Chormar to Sirsa on his motorcycle at a moderate speed and on the left side of the road. One Rakesh Kumar and Amritpal Singh were also coming behind on their motorcycle bearing registration No.PB-30-E-2602 and when they reached Jhopra Road, Lord Hanuman Temple, Meerpur Colony near the fields of one Jagdish, the offending vehicle bearing registration No.HR-21-F-0497 (Tata 407) came from Sirsa side at a very high speed and in a rash and negligent manner and

struck the motorcycle of the claimant-appellant. As a result, the claimant-appellant fell on the road and sustained injuries on his person and thereafter the claimant-appellant was shifted to Government Hospital, Sirsa where he was referred to higher institution for better treatment and was brought to Sarvodya Hospital, Hisar. An FIR No.112 dated 11.05.2010 was registered under Sections 279, 337, 427 of the Indian Penal Code, 1860 at Police Station Sadar Sirsa against the driver of the offending vehicle (respondent No.1 herein). Upon notice respondent Nos.1 and 2 appeared and filed their joint written statement taking the preliminary objection that the vehicle has falsely been implicated in the present case. On merits it was stated that no accident took place. Respondent No.3 (Insurance Company) appeared through counsel and filed its written statement taking various preliminary objections regarding maintainability, respondent No.1 was not having a valid driving licence etc. On merits, the factum of the accident was denied and it was averred that the FIR was falsely registered. The Tribunal vide the impugned award held that it was a case of head-on collision and fastened the liability to the extent of 25% to the claimant-appellant and awarded the following compensation :

1	Loss of earning	₹8,16,000/-
2	Medical bills	₹4,19,750/-
3	Pain and suffering	₹1,00,000/-
4	Transportation charges	₹50,000/-
5	Follow up treatment	₹1,50,000/-
6	Attendant charges	₹1,50,000/-
	Total	₹16,85,750/-
	Deduction towards contributory negligence @ 25%	₹12,64,300/- (₹16,85,750 - 4,21,437)

3. Learned counsel for the claimant-appellant would contend that in the present case, the contributory negligence to the extent of 25% has wrongly been fastened upon the claimant-appellant. The learned counsel has pointed out that the owner and driver and the Insurance Company in their written statement had actually denied the factum of the accident and no defense of contributory negligence was even raised by them. It is further the contention of the learned counsel that the vehicle was being driven on the left side of the road and was hit from the front by the offending vehicle. The learned counsel for the claimant-appellant would contend that the claimant-appellant was 30 years of age at the time of the accident which took place on 10.05.2010 and was working as a driver and earning ₹50,000/- per month. It is further the contention of the learned counsel that in the accident the claimant-appellant sustained multiple grievous injuries resulting in him becoming permanently disabled to the extent of 100% as per the disability certificate (Ex.PA). It is further the contention of the learned counsel that the claimant-appellant remained admitted in different hospitals from 11.05.2010 to 22.06.2010 and 16.07.2010 to 23.07.2010 and was operated upon for ORIF for fracture of right femur, interlocking nail for fracture left tibia and PEG and tracheotomy and also remained on ventilatory support. It is further the contention of the learned counsel that the amount of compensation is on the lower side inasmuch as the Tribunal ought to have applied a multiplier method and that the amounts awarded under the head pain and suffering, attendant charges are also on the lower side and further no amount has been awarded towards special diet and loss of amenities of life.

4. *Per contra*, the learned counsel for the respondents would contend that since it was a head-on collision, it is a clear case of contributory negligence. However, the learned counsel for the respondents are not in a position to deny the fact that no plea qua contributory negligence was raised by the Insurance Company or by the owner and driver. Qua quantum of compensation, the learned counsel for the respondents have vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

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

6. In the present case merely because it was a head-on collision, the Tribunal has held it to be a case of contributory negligence and fastened the liability to the extent of 25% on the claimant-appellant. The categorical case set up by the claimant-appellant herein was that he was riding the motorcycle at a moderate speed on the left side of the road and the offending vehicle came from Sirsa side at a high speed and hit the motorcycle head-on. Neither the Insurance Company or the owner and driver took the plea that it was a case of contributory negligence, rather they denied the factum of the accident. There is not an iota of evidence on the record that it was a case of contributory negligence. In the absence of any pleadings or evidence qua the contributory negligence, the finding of the Tribunal holding the claimant-appellant to have contributed to the accident to the extent of 25% cannot be sustained and the same is accordingly set aside.

7. In the present case, Dr. Naresh Nebhinani, Assistant Professor, Department of Psychiatry, PGIMS Rohtak was examined as PW7 who

deposed that the Medical Board examined the claimant-appellant on 05.09.2012. The Eye Department assessed the disability of the claimant-appellant to the extent of 20%; Neurosurgery Department assessed the disability to the extent of 75% (Head Injury Left fronto-temporo-parietal acute subdural haemorrhage with right hemiparesis-severe) and Psychiatry Department assessed his disability to the extent of 100% (I.Q. below 20-profound impairment in intellectual functioning). He further deposed that in view of the said findings, the Medical Board assessed the permanent disability of the claimant-appellant as 100% and he also proved on record the disability certificate as Ex.PA.

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), the Tribunal should have applied a multiplier method keeping in view the disability of the claimant-appellant by assessing his income according to the minimum wages prevalent at the relevant point of time. In the present case, the claimant-appellant was 30 years of age and was working as a driver and the minimum wages of a skilled worker at the relevant point of time were ₹4,788/- per month and, hence, this Court deems it appropriate to assess the income of the claimant-appellant as ₹5,000/- per

month (rounded off). At the time of the accident, the claimant-appellant was 30 years of age and, hence, a multiplier of '17' would be applicable and an addition of 40% is also to be made towards loss of future prospects.

10. The Tribunal has only awarded an amount of ₹1,50,000/- towards attendant charges. The Supreme Court in the case of **Abhimanyu Partap Singh Vs. Namita Sekhon & Anr. [2022 (3) RCR (Civil) 557]** had assessed the attendant charges for the injured who was totally confined to the bed as ₹5000/- per month for whole life, calculating the compensation applying a multiplier of 18. Keeping in view the nature of the disability and the condition of the claimant-appellant, he would require two attendants a day and taking the minimum wages as prevalent at the time of the accident for a skilled worker which was about ₹5,000/- per month (rounded off) and applying a multiplier of '17', the claimant is awarded an amount of ₹20,40,000/- ($₹5,000 \times 2 \times 12 \times 17$) towards attendant charges.

11. The Tribunal has not awarded any amount towards special diet. Keeping in view the nature of the disability, this Court deems it appropriate to award an amount of ₹50,000/- towards special diet. No amount has also been awarded towards future medical expenses. Keeping in view the nature of injuries received and the disability and the fact that continuous medical care would be required, this Court deems it appropriate to award an amount of ₹10,00,000/- towards future medical expenses. The Tribunal has only awarded an amount of ₹1,00,000/- under the head pain and suffering. The same is enhanced to ₹10,00,000/- keeping in view that it is a case of life-long suffering for the claimant-appellant. Further, qua loss of amenities of life, no amount has been awarded and, hence, an amount of ₹2,00,000/- is

awarded towards loss of amenities of life. The amounts of ₹4,19,750/- and ₹50,000/- awarded by the Tribunal towards medical bills expenses and transportation charges, respectively, are maintained. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Monthly income	₹5,000/-
2	Annual Income	[₹5,000 x 12] = ₹60,000/-
3	Loss of annual Income on account of 100% disability	₹60,000/-
4	Future prospects 40%	[₹60,000+24,000] = ₹84,000/-
5	Multiplier ‘17’	[₹84,000 x 17] = ₹14,28,000/-
6	Attendant charges	₹20,40,000/-
7	Special Diet	₹50,000/-
8	Future Medical Expenses	₹10,00,000/-
9	Pain and suffering	₹10,00,000/-
10	Loss of amenities of life	₹2,00,000/-
11	Medical bills	₹4,19,750/-
12	Transportation charges	₹50,000/-
	Total Compensation	₹61,87,750/-

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 realization of the entire amount.

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

07.02.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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