



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

235

FAO-5700-2016 (O&M)
Date of Decision : 24.02.2025

Ruby

....Appellant

VERSUS

Bakhshish Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Munish Gupta, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for respondent No.5.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellant against the award dated 01.04.2016 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') whereby an amount of Rs.31,11,537/- was awarded as compensation to the claimant-appellant.

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	Transportation charges	Rs.10,000/-
2	Compensation for engaging an attendant	Rs.60,000/-
3	Compensation for special diet	Rs.10,000/-

4	Pain and suffering and loss of enjoyment	Rs.1,00,000/-
5	Compensation for permanent disability	Rs.28,08,000/-
6	Medical bills	Rs.1,23,537/-
	Total Compensation	Rs.31,11,537/-
	Interest	7.5% per annum

4. Learned counsel for the claimant-appellant would contend that the claimant-appellant is aggrieved by the quantum of compensation awarded by the Tribunal inasmuch as the income of the claimant-appellant has been assessed as Rs.13,000/- per month whereas AW2 Ms. Anney Avarachen, who was a summoned witness and was working as Vice Principal of Holy Family College of Nursing and Hospital, New Delhi clearly stated that all the batchmates of the claimant-appellant, who had done the nursing course with her, had been employed and had been given a starting salary of Rs.19,031/- per month. Learned counsel for the claimant-appellant would further contend that the claimant-appellant in the present case had cleared her nursing course as has also come in the evidence of AW2. It is further the contention that the multiplier method has been applied by the Tribunal keeping in view the fact that the functional disability of the claimant-appellant has been assessed as 100% since she has been diagnosed being the case of fracture of D12 and L1 with complete paraplegia. The disability certificate has been proved on record as Ex.AW5/A. However, no amount has been awarded towards loss of future prospects. It is further the contention that even the amounts awarded under the heads ‘attendant charges, ‘special diet’, ‘taxi charges’ and ‘pain and suffering’ are on the lower side and that no amount has been awarded towards loss of amenities

of life, future medical expenses and loss of marriage prospects. In support of his argument, learned counsel for the claimant-appellant has relied upon a judgment passed by this Court in **FAO-3608-2017 [Reliance General Insurance Company Ltd vs. Priyanka Das & Ors.]** to contend that keeping in view the condition of the claimant-appellant some amount ought to have been awarded towards future medical expenses especially in view of the evidence by the doctor that the claimant-appellant would not be able to stand or walk and that she has no sensation in her lower limb region and has no control over her bowel movements or bladder.

5. *Per contra* learned counsel for respondent No.5-Insurance Company would contend that every person, who has completed a course, would not necessarily be employed and hence the income of the claimant-appellant has rightly been assessed by the Tribunal. It is further the contention that as per the claimant-appellant herself she has been paying Rs.5,000/- per month towards attendant charges and therefore the attendant charges may be assessed as Rs.5,000/- per month.

6. Heard.

7. In the present case the claimant-appellant who was 23 years of age at the time of accident received multiple injuries. At the time when she met with an accident, she had taken her final exams for the nursing course, which she was pursuing at Holy Family College of Nursing and Hospital, New Delhi. Infact, her viva-voce was conducted at the hospital itself. The claimant-appellant suffered fracture at D12, L1 level resulting in paraplegia. She remained hospitalized and was operated upon and screw affixation was done at D12 and L1 level. She remained admitted in PGIMER from 29.12.2014 to 23.01.2015 and again from 25.05.2015 to 02.06.2015 due to

implant failure. Due to the injuries to the spinal cord and spinal nerves, sensation to her lower limb has been affected, which cannot be repaired resulting in paraplegia. AW1 Dr. Harsha Vardhan, MS (Ortho), Senior Resident, PGIMER, Chandigarh stepped into the witness-box and deposed that the claimant-appellant was found to be a case of fracture, dislocation D12-L1 Vertebra with paraplegia with bowel and bladder involvement. It was also stated that the spinal cord was completely cut in the accident, and an implant was affixed on the Vertebra. The patient was initially discharged on 23.01.2015. However, she was re-admitted on 25.05.2015 due to implant failure and surgery was performed for implant removal and debridement. The implant was removed due to infection. AW1 further deposed that the spinal cord and nerves of the patient have been cut and cannot be repaired or replaced and the disability was not curable. It was further deposed by AW1 that the claimant-appellant would not be able to sit on her own and she cannot walk. PW5 Sudesh Pebam, MS (Ortho), Department of Orthopedics, PGIMER, Chandigarh also deposed to the same effect. The disability certificate (Ex.AW5/A) was proved by the said doctor.

8. AW2 Ms. Anney Avarachen, Vice Principal of Holy Family College of Nursing and Hospital, New Delhi stepped into the witness-box and stated that the claimant-appellant had completed her internship in the Nursing College and would have been absorbed as a Nurse in the Holy Family College of Nursing and Hospital and all her batchmates were given a starting salary of Rs.19,031/- (wrongly noted as Rs.18,000/- in the award). There is no reason to doubt the testimony of the said witness, who was an independent and summoned witness. Keeping in view the unrebutted testimony of AW2, this Court deems it appropriate to assess the income of

the claimant-appellant as Rs.19,031/- per month. The argument of learned counsel for respondent No.5-Insurance Company that it is not necessary that every person who have completed the course would have been employed is rejected in view of the unrebutted testimony of AW2 wherein she has clearly stated that the claimant-appellant having cleared her course and her internship, she would have been absorbed in the Institute itself.

9. The disability of the claimant-appellant as assessed by the Tribunal to the extent of 100% is maintained. Though the Tribunal has applied the multiplier method, however, no addition has been made towards loss of future prospects. Keeping in view the law laid down by the Hon'ble Supreme Court in case of **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** an addition of 40% is made towards loss of future prospects.

10. The Tribunal has awarded a lump sum amount of Rs.60,000/- towards attendant charges which, in the opinion of this Court, is on the lower side. In **Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]** Hon'ble Supreme Court has awarded attendant charges to an injured, who was totally confined to bed, according to minimum wages of a skilled workman prevalent in the concerned State by applying a multiplier method. In the present case, keeping in view the nature of injury suffered by the claimant-appellant, who is also totally confined to bed and the fact that the accident had taken place in the year 2014, this Court deems it appropriate to award attendant charges to the claimant-appellant as per the minimum wages payable to a skilled workman in Union Territory Chandigarh at the time of the accident, which were Rs.9,854/- per month and hence the claimant-appellant, who is totally confined to bed, would be

entitled to an amount of Rs.21,28,464/- [Rs.9,854/- x 12 x 18 (multiplier)] towards attendant charges.

11. The Tribunal has awarded an amount of Rs.10,000/- under the head ‘special diet’ is on the lower side and the same is enhanced to **Rs.2,00,000/-**. Keeping in view the long hospitalization, the amount of Rs.10,000/- awarded by the Tribunal towards taxi charges is also on the lower side and the same is enhanced to **Rs.1,00,000/-**. Only an amount of Rs.1,00,000/- has been awarded by the Tribunal towards ‘pain and suffering’, which is also on the lower side and the same is enhanced to **Rs.10,00,000/-**. No amount has been awarded towards loss of amenities of life and hence the claimant-appellant is awarded an amount of **Rs.5,00,000/-**. The Tribunal has also not awarded any amount towards future medical expenses of the claimant-appellant. Keeping in view the nature of injuries received by the claimant-appellant and the fact that she has been rendered paraplegic with no control over her bowel and bladder, she would require an air mattress to avoid bed sores, diapers and catheterization and regular medical assistance and hence an amount of **Rs.10,00,000/-** is awarded towards future medical expenses. No amount has been awarded towards loss of marriage prospects. This Court deems it appropriate to grant **Rs.10,00,000/-** towards loss of marriage prospects. The amount of Rs.1,23,537/- awarded by the Tribunal towards medical bills is maintained. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	Rs.19,031/-
2	Annual Income	[Rs.19,031 x 12] = Rs.2,28,372/-
3	Future prospects @ 40%	[Rs.2,28,372+91,349] = Rs.3,19,721/-

4	Loss of income after applying multiplier ‘18’	[Rs.3,19,721 x 18] = Rs.57,54,978/-
5	Attendant charges	Rs.21,28,464/-
6	Special Diet	Rs.2,00,000/-
7	Taxi charges	Rs.1,00,000/-
8	Pain and suffering	Rs.10,00,000/-
9	Loss of amenities of life	Rs.5,00,000/-
10	Future medical expenses	Rs.10,00,000/-
11	Loss of marriage prospects	Rs.10,00,000/-
12	Medical expenses	Rs. 1,23,537/-
	Total Compensation	Rs. 1,18,06,979/-

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 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.

24.02.2025
jk

(ALKA SARIN)
JUDGE

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