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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4592-2017 (O&M)
Date of Decision : 04.08.2025

Rakesh Kumar ....Appellant

VERSUS

Dr. Sushil Kumar Saini and Another ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajeev Dev Sharma, Advocate for the appellant.

Mr. Rajat Khanna, Advocate for
Mr. Vishal Saini, Advocate for respondent No.1.

Mr. Vinod Chaudhri, Advocate for respondent No.2.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellant against the award dated 18.01.2017 passed by the Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as 'the Tribunal') whereby an amount of Rs.5,40,000/- 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	Medical Bills	Rs.3,00,000/-
2	Pain and suffering and future prospects	₹1,00,000/-
3	On account of disability	₹1,40,000/-
	Total Compensation	**Rs.5,40,000/-**
	Interest	**7.5% per annum**

4. Learned counsel for the claimant-appellant would contend that the claimant-appellant was 45 years of age at the time of the accident, which took place on 23.02.2016. In the said accident the claimant-appellant sustained multiple grievous injuries as a result of which his right leg and two fingers of the right hand were amputated. He was got admitted in Amandeep Hospital, Dalhousie Road, Pathankot from 23.02.2016 to 26.02.2016 from where he was referred to Sanjivani Hospital where he remained admitted from 26.02.2016 to 02.04.2016. 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.1,40,000/- @ Rs.2000/- for every 1% of disability. The claimant-appellant was working as an Electrician and was earning ₹20,000/- per month. Further, the amount awarded under the heads pain and suffering is also on the lower side and further no amount has been awarded towards attendant charges, special diet, 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 the

case of **Reliance General Insurance Co. Ltd. vs. Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602]**.

5. *Per contra*, the learned counsel for the respondent No.2-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

6. Heard.

7. In the present case the claimant-appellant was 45 years of age and as a result of the accident his right leg and two fingers of the right hand were amputated and his permanent disability was assessed as 70%, which is not in dispute, hence the same is maintained. Though it has been pleaded by the claimant-appellant that he was working as an Electrician and was earning ₹20,000/- per month however, in the absence of any evidence the minimum wage for a skilled worker, which was Rs.8,887/- per month, is assessed as the monthly income of the claimant-appellant. Keeping in view the fact that the claimant-appellant was 45 years of age and he had suffered 70% 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 his income according to the minimum wages prevalent at the relevant point of time. At the time of the accident the claimant was 45 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 a 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.7,00,000/-** towards costs of the artificial limb and future maintenance of the said artificial limb. The amount of Rs.1,00,000/- 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 Tribunal has not awarded any amount towards special diet, loss of amenities of life and transportation. Hence, this Court deems it appropriate to grant an amount of **₹20,000/-** towards special diet, **₹5,00,000/-** towards loss of amenities of life and **₹20,000/-**

transportation charges. Further, no amount has been awarded towards attendant charges. Since the claimant-appellant remained under treatment in Amandeep Hospital, Dalhousie Road, Pathankot from 23.02.2016 to 26.02.2016 and in Sanjivani Hospital from 26.02.2016 to 02.04.2016, this Court deems it appropriate to award ₹25,000/- towards attendant charges. The amount of ₹3,00,000/- awarded by the Tribunal towards medical bills is maintained.

10. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual income	[[₹8,887 x 12] = ₹1,06,644/-
2	Loss of annual Income on account of 70% permanent disability	[₹74,650/-
3	Future prospects @ 25%	[₹74,650 + 18,662] = [₹93,312/-
4	Multiplier of 14	[[₹93,312 x14] = [₹13,06,368/-
5	Pain and suffering	₹.2,00,000/-
6	Special Diet	₹20,000/-
7	Medical Bills as allowed by the Tribunal	₹3,00,000/-
8	Transportation charges	₹20,000/-
9	Loss of amenities of life	₹5,00,000/-
10	Costs of Artificial limb and its maintenance in future	₹7,00,000/-
11	Attendant charges	₹25,000/-
	Total Compensation	**₹30,71,368/-**

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 decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimant-appellant within six weeks from today. The particulars of the bank account(s) alongwith the requisite documents(s) 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.

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

(ALKA SARIN)
04.08.2025 **JUDGE**
jk

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