



FAO-4108-2018(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4108-2018(O&M)

Date of decision: 09.01.2025

Narender Kumar Jain

..Appellant

Versus

Bhagti Ram and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Arun Singal, Advocate for the appellant

Mr. Vinod Gupta, Advocate for respondent no.3

ANIL KSHETARPAL, J. (Oral)

1. This is claimant's appeal for modification of the compensation amount awarded by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal').

2. There is no dispute with regard to the fact that the appellant was injured in a motor vehicular accident and he suffered grave injuries on account of rash and negligent driving of respondent no.1, who came from wrong side and hit the appellant's motorcycle.

3. On 16.12.2019 appellant was directed to appear before the Director, Post Graduate Institute of Medical Education and Research, Chandigarh (hereinafter referred to as 'PGIMER') for re-assessing his permanent disability. It has been reported by the Medical Board, PGIMER, Chandigarh that the appellant suffers from physical disability to the extent of 50% as his affected part of body is the right lower limb, fractured femur, stiff knee following a fractured patella. As per the opinion of the Board, the condition of the appellant is not likely to improve. The Tribunal has

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assessed the appellant's income at the rate of Rs.6,000/- per month as he could not produce any documentary evidence to prove his employment. Learned counsel representing the appellant contends that income has been assessed on the lower side and the appellant has not been granted escalation on account of increase in the income in future (future prospects). He further submits that the Tribunal has erred in granting Rs.86,000/- towards permanent disability.

4. Per contra, learned counsel representing the respondent submits that income has correctly been assessed as the appellant failed to produce any documentary evidence.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. Though the appellant could not produce any documentary evidence to prove his income, however, appellant was driving his own motorcycle when he met with an accident. As per the appellant, he was employed with Haryana Oil Company, Gharaunda, Karnal, which runs a fuel station. There is no dispute that the minimum wages at the time of accident of an unskilled worker were Rs.7976/- per month.

7. Keeping in view the aforesaid facts, assessment of income at the rate of Rs.6,000/- is on the lower side and hence, is revised to Rs.7976/- per month. The income of the appellant is liable to be increased at the rate of 40% on account of future prospects because appellant was 37 years of age at the time of accident. As per the opinion of the Medical Board, appellant has permanent disability to the extent of 50% and his right lower limb is affected. If he is treated as an unskilled worker then his functional disability

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would be more than 50%. Moreover, the condition is not likely to improve. Hence, his functional disability is assessed at 60%. Accordingly, the compensation is re-assessed as under:-

Heads	Compensation awarded by Tribunal	Compensation awarded by High Court
Income	6000/-	7976/-
Future prospects	-	40% i.e 3190/- 7976+3190= 11166
Functional disability	43%	60% of 11166 = 6699/-
Loss of income due to disability	86000/-	6699x12x15 = 12,05,820/-
Pain and suffering	40,000/-	40,000/-
Medical expenses	4,54,356/-	4,54,356/-
Special Diet	20,000/-	20,000/-
Transportation	20,000/-	20,000/-
Loss of income during treatment	36,000/-	36,000/-
Total compensation	6,56,356/-	17,76,176/-
Enhanced compensation	17,76,176 - 6,56,356 = 11,19,820/-	

8. Accordingly, the appeal stands disposed of. The claimant shall be entitled to difference in amount of compensation alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till its payment.

9. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

09.01.2025

rekha

Whether speaking/reasoned Yes/No

Whether reportable Yes/No