IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

119

Date of decision: 10.02.2026

FAO-2345-2022(O&M)

Rakesh Kumar

...Appellant(s)

Vs.

Bhupender Kumar Sharma & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Prashant Singh Chauhan, Advocate
Mr. Aman Yadav, Advocate
for the appellant.

Mr. Ankit Bhardwaj, Advocate
Mr. Punit Jain, Advocate
for respondent No.3/Insurance Company.

***

NIDHI GUPTA, J.

Present appeal has been filed by injured-claimant seeking enhancement of compensation of Rs.8,37,420/- awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') vide Award dated 02.12.2021 passed in MACP Case No.546 dated 24.09.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act").

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the appellant had suffered injuries in a motor vehicular

accident that took place on 13.04.2019 due to the rash and negligent driving of Car bearing registration No.HR-06-AD-5690 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The said compensation has been awarded along with interest @ 7.5% per annum. Respondents were held jointly and severally liable to pay the compensation amount.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that prior to the accident, the appellant was working as an Executive Engineer and drawing a salary of Rs.38,000/- per month. The appellant had duly proved his salary by producing relevant Salary Slips which were proved by his Employer (PW4). Therefore, income of the appellant ought to have been taken as Rs.38,000/- per month; whereas the learned Tribunal has erroneously assessed income of the appellant as only Rs.36,000/- per month. In support of his contentions, learned counsel relies upon judgment of Hon'ble Supreme Court in **Hanumantharaju B (Dead) By Lr. V. M. Akram Pasha, (SC) : Law Finder Doc ID # 2730395,** wherein it is held that income of the injured has to be assessed as per the last drawn salary.

4. It is also submitted that in view of the fact that the appellant had proven that he was a regular salaried employee, future prospects ought to have been added @ 50%; whereas the learned Tribunal has made an addition of only 40% towards future prospects.

5. Learned counsel further submits that in the accident in question, the appellant had suffered fracture in chest and right leg, as a result of which, the appellant had suffered permanent disability of 12%. However, the learned Tribunal has taken the functional disability to be only 4%. Ld. counsel submits that even as per the Disability Certificate (Ex.P-58), which was duly proven by PW3 Dr. Ajay Yadav, the appellant had suffered 12% permanent disability. No cogent reasons have been given by the learned Tribunal to assess the functional disability of the appellant as only 4%. It is accordingly prayed that the present appeal be allowed.

6. Per contra, learned counsel for respondent No.3 opposes the submissions advanced on behalf of the appellant and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

7. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

8. It is the first contention of the appellant that prior to the accident, he was working as an Executive Engineer at Shiva Infra Solution, Bawal, and had proven that he was drawing salary as Rs.38,000/- per month. The appellant had examined PW4 Prithvi Raj Singh, Manager of the said Company who had produced copy of the Appointment Letter of the appellant as Ex.P-59. PW4 had also proved the Salary Slips of the appellant

from January 2019 to April 2019 as Ex.P-60 to Ex.-P-63. Ld. Counsel for the appellant has also drawn the attention of this Court to the deposition of PW4 where he had stated that the appellant "*was permanent employee of our company.".* However, a perusal of the said Salary Slips (Ex.P-60 to Ex.P-63 - at page 287 to 289 of the LCR) shows that although monthly salary of the appellant is shown to be Rs.38,000/-; but after making deductions of various allowances such as house rent allowance, etc, the average monthly salary of the appellant came to be about Rs.36,000/- per month. It is not the case of the appellant that the said deductions are not as per law. Moreover, the Salary Slips show that although monthly salary is taken to be Rs.38,000/-, however, the appellant has drawn an amount of Rs.34,935/- in January 2019; Rs.36,643/- in February 2019; Rs.39,022/- in March 2019; and Rs.15,200/- in April 2019. Thus, Tribunal has correctly assessed income of the appellant as ₹36,000/- per month.

9. The appellant has also admitted in his deposition as PW2 that in December 2019, the appellant has joined another job where he is drawing salary of Rs.30,000/- per month. Thus, it was not the case of the appellant that he had to leave the job due to the accident. In view of this admitted position, reliance of the appellant upon judgment in **Hanumantharaju (supra),** is misplaced as the said judgment is distinguishable on facts and law. Keeping in view the entirety of the above-

noted facts and circumstances of the case, I find no error in the income of Rs.36,000/- per month as assessed by the learned Tribunal.

10. In regard to the income of the appellant, it is also to be noted that the appellant was appointed at Shiva Infra Solution, Bawal, vide Appointment Letter dated 1.1.2019 (Ex.P-59 - from page 267 to 285 of the LCR) i.e. only in January 2019; whereas the accident had taken place on 13.04.2019. Thus, the appellant had worked in the said Company only for about three-and-a-half months prior to the accident. As such, in real terms, it cannot be said that the appellant was a 'permanent' employee of the said Company. Moreover, it has been admitted by the appellant himself that in December 2019, he had joined another company. Thus, strictly speaking, the appellant cannot be taken to be a "permanent" employee of the Company; as permanency implies employment of at least two years. Therefore, future prospects have been correctly granted @ 40%.

11. The last contention of the appellant is that the appellant had suffered permanent disability of 12% as proven from the Disability Certificate (Ex.P-58); whereas the learned Tribunal has wrongly assessed the same to be functional disability of only 4%. In this regard, learned counsel has referred to the deposition of PW3 Dr. Ajay Yadav (at page 107 of the LCR), who has stated that *"his permanent disability was assessed at 12% for the reasons mentioned in original certificate Ex.P58".* However, in his cross-examination, PW3 has admitted that "*It is correct that total 12%*

disability is not a permanent disability. It is correct that injured is doing normal work properly." Furthermore, admittedly, the appellant had to get the disability re-assessed after three years. During the course of arguments, learned counsel for the appellant has admitted that no such re-assessment has been done by the appellant. In this situation, learned Tribunal has correctly taken functional disability of the appellant as only 4%. Learned Tribunal has thus, awarded compensation in the following manner:-

Head	**Amount**
Loss of income for about three months	Rs.1,08,000/-
Permanent disability taken as 4%	Rs.3,87,072/-
Medical bills	Rs.2,87,348/-
Pain and suffering	Rs.40,000/-
Transportation and special diet	Rs.15,000/-
Total	**Rs.8,37,420/-**

12. From the above, it is clear that in the facts and circumstances of the case, a very just and fair compensation has been awarded to the appellant. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellant. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in '**State of Haryana & Another Vs. Jasbir Kaur & Others' Law Finder Doc ID # 64043** and **'Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty', (2003) 7 SCC 197,** has held that the amount of compensation should be just and reasonable,

it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. In the case of **"General Manager, KSRTC Vs. Susamma Thomas & Others" 1994 Volume-II SCC 176,** the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

13. In view of the above, present appeal stands **dismissed.**

14. Pending application(s) if any also stand(s) disposed of.

10.02.2026 **(Nidhi Gupta)**
Sunena **Judge**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No