



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

FAO-2086-2016 (O&M)

Date of Decision : 10.03.2025

Sunder Singh

... Appellant(s)

Versus

Harish Kumar & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kuldeep Sheoran, Advocate for the appellant.

Service of respondent Nos.1 to 3 dispensed with
vide order dated 07.03.2018.

Mr. V. Ramswaroop, Advocate for respondent No.4.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the injured claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'Tribunal') vide the impugned award dated 07.06.2011 in a motor vehicle accident which occurred on 15.12.2009.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Pain and suffering	₹50,000/-
2	Permanent disability/loss of earning	₹7,34,400/-
3	Treatment expenses	₹72,097/-
4	Special diet, attendant charges and conveyance charges	₹20,000/-
5	Total	₹8,76,497/-
	Interest	7.5% per annum

4. Learned counsel for the injured claimant-appellant would contend that though the disability of the injured claimant-appellant has rightly been assessed to the extent of 85% and multiplier of 18 has also rightly been applied by the Tribunal, however, the income of the injured claimant-appellant as assessed by the Tribunal is on the lower side inasmuch as the minimum wages of a skilled worker, prevalent at the time of the accident, were ₹4,564/- per month. It is further the contention of the learned counsel that no addition has been made towards future prospects which ought to have been 40%. In support of his contentions, he has relied upon the judgment of the Hon'ble Supreme Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]**. It is further the contention of the learned counsel that the amount awarded by the Tribunal under the non-pecuniary heads is also on the lower side. The learned counsel has further contended that no amount has been awarded towards loss of marriage prospects, loss of amenities of life and cost of artificial limb.

5. *Per contra*, the learned counsel for respondent No.4-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. I have heard the learned counsel for the parties.

7. In the present case, no appeal has been preferred by the Insurance Company. Since, the disability of the injured claimant-appellant to the extent of 85% and multiplier of 18 as applied by the Tribunal, are not in dispute, the same are accordingly maintained. Admittedly, the injured claimant-appellant was a driver by profession and the Tribunal has assessed his income as

₹4,000/- per month, which in the opinion of this Court, is on the lower side inasmuch the accident in question pertains to 15.12.2009 and the minimum wages of a skilled worker at that time were ₹4,564/- per month. Hence, the income of the injured claimant-appellant is assessed as ₹4,564/- per month.

8. 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.”

9. Keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Pappu Deo Yadav** (supra) and the fact that the injured claimant-appellant was 29 years of age at the time of the accident, an addition of 40% is also to be made towards future prospects.

10. Further, the amount awarded by the Tribunal under the non-pecuniary heads is also on the lower side inasmuch as the treatment record of the injured claimant-appellant including his MLR i.e. Exhibits PA, PE, PE/1 and PF proved on record the extent of the injuries suffered by the injured claimant-appellant and further PW5, Dr. Reena Jain, Medical Officer, GM, Hisar testified that the injured claimant-appellant had suffered amputation of right arm at upper 1/3rd level and testified his disability to the extent of 85% permanent in nature. Thus, keeping in view the nature of injury suffered by the injured claimant-appellant, in the opinion of this Court, the amount awarded by the Tribunal under the non-pecuniary heads is on lower side. Further, the injured claimant-appellant is also entitled to the compensation under the head loss of marriage prospects inasmuch as due to

the accident his marriage prospects got diminished. Thus, an amount of ₹2,00,000/- is awarded towards pain and suffering; ₹5,00,000/- towards loss of amenities of life; ₹50,000/- towards special diet/transportation; and ₹5,00,000/- towards loss of marriage prospects. In the present case, no amount has also been awarded by the Tribunal towards costs of artificial limb and periodical replacement of artificial limb. Taking a cue from the judgment in the case of **Reliance General Insurance Co. Ltd. vs. Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602]**, wherein an amount of ₹7,00,000/- was awarded towards cost of the artificial limb in the year 2017, this Court deems it appropriate to award an amount of ₹10,00,000/- towards costs of the artificial limb and for future maintenance of the said artificial limb. An amount of ₹72,097/- awarded by the Tribunal towards treatment expenses is maintained. Accordingly, the reworked compensation is as under:

Sr. No.	Heads	Compensation Awarded
1	Annual income	[₹4,564 x 12] = ₹54,768/-
2	Loss of annual Income on account of 85% disability	₹46,553/- (₹54,768 – 8,215)
3	Future prospects @ 40%	[₹46,553 + 18,621] = ₹65,174/-
4	Multiplier of 18	[₹65,174 x 18] = ₹11,73,132/-
5	Special Diet and Transportation charges	₹50,000/-
6	Treatment charges as awarded by the Tribunal	₹72,097/-
7	Pain and suffering	₹2,00,000/-
8	Loss of amenities of life	₹5,00,000/-
9	Loss of marriage prospects	₹5,00,000/-
10	Costs of Artificial limb and its maintenance in future	₹10,00,000/-
	Total Compensation	₹34,95,229/-

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 realization of the entire amount.

12. Vide order dated 11.10.2023 the application for condonation of delay of 1634 days in filing the appeal was allowed. However, it was noticed that the granting of interest can be seen only at the final stage. Hence, it is made clear that the claimant-appellant shall not be entitled to any interest for the period of delay in filing the appeal.

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

10.03.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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