



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

260

FAO-7081-2018 (O&M)

Date of Decision : 13.02.2025

SUBHASH CHANDER

.... Appellant

VERSUS

KARNAIL SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arvind Kashyap, Advocate for the appellant.

Mr. Imran Ahmad Ali, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-25985-CII-2018

1. This is an application for condonation of delay of 182 days in filing the main appeal.
2. For the reasons stated in the application, the same is allowed and the delay of 182 days in filing the main appeal is condoned.

FAO-7081-2018

3. The present appeal has been preferred by the claimant-appellant challenging the award dated 29.08.2017 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') whereby an amount of ₹9,61,780 was awarded as compensation on account of the injuries received by the claimant-appellant in a motor vehicular accident which took place on 24.03.2015.

4. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

5. In the present case the Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹7,500
2.	Annual income	[₹7,500 x 12] = ₹90,000
3.	Future prospects @50%	[₹90,000 + ₹45,000] = ₹1,35,000
4.	Deduction 1/3 rd	[₹1,35,000 - ₹45,000] = ₹90,000
5.	Loss of income for 10 months	[₹7,500 x 10] = ₹75,000
6.	Loss of income on account of disability after applying multiplier of '17'	[₹3,500 x 12] x 17 = ₹7,14,000
7.	Medical expenses	₹22,780
8.	Pain and suffering	₹50,000
9.	Loss of enjoyment and amenities	₹50,000
10.	Artificial limb	₹50,000
	Total Compensation	₹9,61,780
	Interest	@ 7.5% per annum

6. Learned counsel for the claimant-appellant would contend that the claimant-appellant was 34 years of age at the time of the accident, which took place on 24.03.2015. In the said accident the offending truck ran over the right leg of the claimant-appellant and crushed his right leg below the knee joint. It is further the contention of learned counsel for the claimant-appellant that the claimant-appellant remained admitted in PGI, Chandigarh from 24.03.2015 to 27.03.2015. As a result of the accident his right leg was amputated as the same was completely damaged thereby suffering disability

to the extent of 75%. The learned counsel for the claimant-appellant would further contend that the amount of compensation awarded by the Tribunal under the heads pain and suffering, loss of amenities of life and artificial limb are on the lower side. It is further the contention that no amount has been awarded towards special diet and transportation charges.

7. *Per contra*, the learned counsel for the respondent No.3-Insurance Company has vehemently argued that the Tribunal has wrongly made an addition of 50% towards future prospects which ought to have been 40% and that the income of the deceased @ ₹7,500 per month is also on the higher side. Learned counsel would further contend that the multiplier of '17' has also wrongly been applied by the Tribunal which ought to have been '16'. However, it is candidly admitted by the learned counsel for respondent No.3-Insurance Company that no appeal has been preferred by respondent No.3-Insurance Company as the Company was not aggrieved by the said findings returned by the Tribunal.

8. Heard.

9. In the present case, Dr. Tarandeep Singh Nagra, Ortho Surgeon stepped into the witness-box as CW-3 and testified that due to the accident the claimant-appellant suffered permanent disability to the extent of 75% and has also produced on record the disability certificate as Ex.C-1. He further testified that due to the accident the right leg of the claimant-appellant was amputated as the same was completely damaged. The claimant-appellant in the present case was working as a labourer and was doing the work of iron and steel loading and due to amputation of his right

leg, the claimant-appellant would not be in a position to work as a labourer. In view of the disability suffered by the claimant-appellant, the Tribunal has wrongly assessed his disability to the extent of 50% and, hence this Court deems it fit to take his permanent disability to the extent of 75%. The Tribunal has assessed the income of the claimant-appellant as ₹7,500 and since there is no challenge to the same, the same is maintained. Further the multiplier of '17' and the addition @ 50% made towards future prospects, as applied by the Tribunal, are also maintained.

10. The amounts awarded by the Tribunal under the head pain and suffering and loss of amenities of life are on the lower side. Keeping in view the nature of disability suffered by the claimant-appellant, this Court deems it appropriate to enhance the amount awarded under the head pain and suffering to ₹2,50,000. The Tribunal has awarded an amount of ₹50,000 towards loss of amenities of life, which in the opinion of the Court is on the lower side and, this Court deems it appropriate to enhance the amount to ₹5,00,000 under the said head. No amount has been awarded towards special diet and transportation charges. Accordingly, this Court deems it appropriate to award ₹25,000 under the head special diet and ₹25,000 towards transportation charges.

11. The Tribunal has awarded only an amount of ₹50,000 for the artificial limb and its maintenance thereof. The Delhi High Court in the case of **Reliance General Insurance Co. Ltd. vs. Rohit Kumar & Ors. [2017 (7) AD (Delhi) 602]** has awarded an amount of ₹7,00,000 towards cost of artificial limb in the year 2017. In the present case, the accident took place in

the year 2015 and taking a cue from the judgment in the case of **Rohit Kumar** (supra), this Court deems it appropriate to award an amount to ₹7,00,000 towards the cost of the prosthetic/artificial limb and its future maintenance thereof. The amount of ₹22,780 awarded by the Tribunal towards medical expenses, to which there is no challenge, is maintained.

12. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹7,500
2.	Annual Income	[₹7,500 x 12] = ₹90,000
3.	Loss of annual Income on account of 75% permanent disability	₹67,500
4.	Future prospects @50%	[₹67,500 + ₹33,750] = ₹1,01,250
5.	Loss of income after applying multiplier '17'	[₹1,01,250 x 17] = ₹17,21,250
6.	Loss of amenities of life	₹5,00,000
7.	Pain and suffering	₹2,50,000
8.	Prosthetic/artificial limb	₹7,00,000
9.	Medical expenses	₹22,780
10.	Special diet	₹25,000
11.	Transportation charges	₹25,000
	Total Compensation	₹32,44,030

13. 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.

14. In view of the above discussion, the present appeal is allowed. The award passed by the Tribunal stands modified in the above terms. Pending applications, if any, also stand disposed off.

13.02.2025

Aman Jain

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No

(ALKA SARIN)

JUDGE