REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6365 OF 2022

Ramesh ...Appellant(s)

Versus

Karan Singh & Anr. ...Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. The application for deleting the name of respondent No. 2 herein is allowed at the risk and responsibility of the appellant herein.

2. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 16.07.2019 passed by the High Court of Punjab & Haryana at Chandigarh in FAO No. 83 of 2002, by which, the High Court has partly allowed the said appeal preferred by the appellant herein – injured – claimant and has enhanced the amount of compensation to Rs. 14,82,000/- only, the original claimant has preferred the present appeal.

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Reason:

3. In a vehicular accident which occurred on 02.01.1997, the appellant – original claimant sustained multiple injuries. There was an amputation of right upper limb below elbow at upper 1/3rd of fore-arm. During the prolonged hospitalization, the injured – claimant was required to undergo five operations. At the time of accident, the appellant was getting USD 1000 as a salary in Merchant Navy where he was employed at Belgium excluding free food, accommodation, and free air ticket. The appellant approached the Motor Accident Claims Tribunal (for short "Tribunal") claiming Rs. 1,02,00,000/- for compensation under different heads. The Tribunal awarded a total sum of Rs. 6,68,000/- under different heads including the expenses covering medicine, treatment, special diet, pain, shock and suffering and future loss of income. While awarding future economic loss, the Tribunal determined and considered the income of the injured at Rs. 3,500/- per month. In the appeal preferred by the claimant, by the impugned judgment and order the High Court has enhanced the amount of compensation from Rs. 6,68,000/- to Rs. 14,82,000/-. While awarding future

economic loss, the High Court has though considered the income of the injured at Rs. 36,000/- per month in Merchant Navy, Belgium, but has actually considered the loss of income at 50% of the same on the ground that in Merchant Navy, usually the job is for six months in a year and that as per the medical evidence, the injuries have resulted in 70% disability qua right arm. The High Court has awarded Rs. 25,000/- towards pain and suffering and Rs. 10,000/- for special diet and Rs. 5,000/- for transportation. Thus, the High Court has determined and awarded a total sum of Rs. 14,82,000/- towards compensation along with 7.5% per annum interest from the date of filing of claim petition till realization.

3.1 Feeling aggrieved and dissatisfied with the judgment and order passed by the High Court in determining and awarding only Rs. 14,82,000/- towards compensation, the original claimant – injured has preferred the present appeal.

4. We have heard learned counsel appearing on behalf of the respective parties at length.

5. By the impugned judgment and order, the High Court while awarding the future economic loss has considered the loss of income at Rs. 18,000/- per month. However, it is required to be noted that the appellant was serving as Merchant Navy and his salary at the relevant time was USD 1000. His right hand below elbow was amputated resulting in 70% disability qua right arm. The High Court has observed that the claimant can still earn something. However, it is required to be noted that the claimant will not be able to do any work in Merchant Navy. The High Court also observed that in Merchant Navy, usually the job is for six months in a year. The said observation is absolutely without any basis. No evidence is led on behalf of the respondents on the aforesaid. It cannot be said that the claimant would do nothing for rest of six months. The High Court has also not considered the future rise in income. Under the circumstances and in the facts and circumstances of the case, the High Court ought to have awarded the future economic loss considering the loss of income at least at Rs. 30,000/- per month. Therefore, the total loss comes to Rs. 57,60,000/- (30000x12x16).

5.1 The High Court has awarded Rs. 25,000/- only towards pain, shock, and suffering. However, it is required to be noted that the right hand below elbow of the claimant was amputated. During prolonged hospitalization, he was operated five times. Looking to the serious injuries, the claimant was required to be shifted to Medical College and Hospital at Rohtak and thereafter to Jaipur Golden Hospital, New Delhi, where he was remained admitted from 03.01.1997 to 21.01.1997. Therefore, considering the five operations, prolonged hospitalization, and suffering, we are of the opinion that the amount of Rs. 25,000/- awarded by the High Court under the head of pain, shock, and suffering can be said to be on a lower side. In the facts and circumstances of the case, narrated hereinabove, we are of the opinion that the claimant shall be entitled to at least Rs. 4,00,000/- towards pain, shock, and suffering. The impugned judgment and order passed by the High Court is to be modified accordingly.

6. In view of the above and for the reasons stated above, the present appeal succeeds in part. The impugned judgment and order passed by the High Court is modified and it is

ordered that the appellant herein – injured – claimant shall be entitled to a total sum of Rs. 62,35,000/- with 7.5% interest per annum from the date of filing of the claim petition till realization.

7. The present appeal is partly allowed to the aforesaid extent. The enhanced amount of compensation is to be deposited by the respondents with the learned Tribunal within a period of eight weeks from today and on such deposit the same be paid to the original claimant – appellant herein by account payee cheque. No costs.

.....J.
[M.R. SHAH]

NEW DELHI;
SEPTEMBER 16, 2022

.....J.
[KRISHNA MURARI]