

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO NO.5187 of 2002

Date of Decision: 25.02.2015

Gurmukh Singh

... Appellant

Vs.

Mathu Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON.

Present: Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for respondent No.3-National Insurance Company Ltd.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

S.S. SARON, J.

Gurmukh Singh-appellant being aggrieved against the inadequate compensation granted to him for the injuries that he suffered in a motor vehicle accident has filed the present appeal against the order dated 09.08.2002 passed by the learned Motor Accident Claims Tribunal, Chandigarh ('Tribunal' for short).

According to the appellant, he and his son Satwant Singh were going on their scooter No.PB27A/0521 on 20.03.1999 from his village Jhandpur via Deshu Majra to Kharar. Satwant Singh son of the appellant was

driving the scooter while the appellant was riding pillion. A relative of the appellant namely Trilochan Singh was going ahead of them on a separate scooter No.PB11/4916. Rajbir Singh (respondent No.4), it is stated, brought his red colour Mahindra tractor on which, 'applied for' was recorded (new number was given as PB12/6438/TC/L) from the side of Village Deshu Majra. The tractor it was alleged was being driven rashly and negligently and it first hit the scooter of Trilochan Singh. The appellant and his son as also Trilochan Singh were going on the correct side of the road. The tractor then hit the scooter of the appellant. The appellant and his son fell down along with scooter and suffered injuries. The appellant suffered injuries on his leg and left side hip. After the accident, Rajbir Singh (respondent No.4) ran away from the spot. Satwant Singh son of the appellant chased him and he was apprehended. The appellant was brought to General Hospital, Sector 16, Chandigarh where he remained admitted upto 21.03.1999. There was a fracture on his upper part of right Tibia. He also had fracture on lower part of left fibula (b) ankle. There were other injuries also. The permanent disability of the appellant was assessed at 32%.

The learned Tribunal held that the accident had occurred due to rash and negligent driving of Rajbir Singh (respondent No.4) driver of the tractor No. PB12/6438/TC/L. There is no challenge to the said finding inasmuch as the respondents have not filed an appeal against the same.

The only question is whether the appellant is entitled for more compensation. The appellant was working as Peon in the Food and Supplies Department, Punjab. He was aged 59 years at the time of the accident. His monthly salary was Rs.6274/-. Besides, it is claimed that he had agricultural

income of Rs.5,000/- and also earning Rs.6,000/- from dairy farming. The learned Tribunal has awarded compensation of Rs.25,000/- towards loss of dairy farming and agriculture work. Besides, the appellant was awarded a sum of Rs.30,000/- towards his disability.

In Arvind Kumar Mishra v. New India Assurance Company Limited and another (2010) 10 SCC 254, the Supreme Court considered the case of a final year student of engineering with 70% permanent disability. The student, it was observed, was remarkably brilliant having passed his all semesters with distinction. He was rendered incapacitated and his chosen line of Mechanical Engineering, was dashed forever. His income was taken at Rs.60,000/- per month. The claimant-appellant in the said case at the time of accident was 25 years of age and the operative multiplier of 18 was applied. His future earnings were discounted by 30% and a multiplicand of Rs.42,000/- was worked out. On the said basis, the damage to compensate the claimant-appellant towards loss of future earning was assessed at Rs.7,56,000/-.

In the present case, applying the said principle and norms, the permanent disability of the appellant has been assessed as 32%. Taking his income at Rs.6274/- per month, his annual income works out to Rs.75,288/-. The appellant was 59 years of age at the time of accident and therefore, a multiplier of 9 is to be applied i.e. $\text{Rs.75,288} \times 9 = \text{Rs.6,77,592/-}$. Therefore, 32% of Rs.6,77,592/- works out to Rs.2,16,829/-. From this, an amount of Rs.30,000/- that has been awarded by the learned Tribunal and paid towards disability is to be deducted. Thus, Rs.1,86,829/- is the amount that is payable to the appellant for the disability that he had suffered.

The learned Tribunal has awarded Rs.3,000/- towards

transportation charges and Rs.3,000/- towards special diet. The said sum may be inadequate and further a sum of Rs.13,171/- is liable to be awarded under both the heads which would make a round figure Rs.2,00,000/- payable to the appellant.

Therefore, the appellant is held entitled to Rs.2,00,000/- as more compensation, which shall be payable with interest @9% from the date of filing the petition till realisation.

The appeal is accordingly disposed of in the above terms.

25.02.2015

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**[S.S. SARON]
JUDGE**