

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

FAO-1851-1995

Date of Decision: August 27, 2015

Sadhu Singh

.....Appellant

Versus

The District Transport Co-operative Pvt. Ltd. and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Imran Farooq, Advocate for
Mr.D.S.Pheruman, Advocate
for the appellant.

Mr. Prateek Mahajan, Advocate
for respondent No.1.

Mr.Ashwani Talwar, Advocate with
Mr. J.S.Chatrath, Advocate
for respondent No.3.

RITU BAHRI, J. (Oral)

This appeal has been filed by Sadhu Singh-appellant against the award dated 12.01.1995 passed by the Motor Accident Claims Tribunal, Amritsar whereby compensation of Rs.78,000/- has been awarded to the appellant who had suffered physical permanent disability of 50%. However, for the facility of reference, the facts are

being taken from FAO No.1313 of 1995.

Brief facts of the case are that the claimant was travelling in a bus bearing registration No.PJE-9277, belonging to the District Transport Co-operative Pvt. Ltd.(respondent No.1), was seriously injured in a road accident on account of rash and negligent driving of the said bus by Balkar Singh-respondent No.2 on 20.08.1991 at about 8.00 a.m. near sheller of Puran Singh of Harsha Chhina in the area of village Kukranwala. Sadhu Singh was taken to the clinic of Dr. Balwinder Singh of village Bhangwan and remained under his treatment from 20.08.1991 to 25.09.1991. Thereafter, he was taken to S.G.T.B. Hospital, Amritsar, where he remained as an indoor patient since 26.09.1991. It is submitted that the claimant was undergoing treatment and incurred expenditure of medicine and treatment. He is also subjected to have remained out of work for a sufficient period since he suffered physical disability. He claimed compensation of Rs.3 lacs.

The FIR (Ex.PA) was registered against Balkar Singh under Section 279, 337 and 338 IPC. The Tribunal cannot go through the accident in which the complainant had suffered injuries on account of rash and negligent driving of the offending vehicle which cause multiple injuries to Sadhu Singh. Driver of the bus was aware that there was some technical defect and in such condition he was expected to slow down the speed of the bus and has to drive the vehicle with due care and caution. The tractor was coming from the

opposite direction, besides, the stationary tractor standing on the road side. The driver should have completely stopped the bus and should have allowed to allow the tractor to pass by road side first and then should have gone ahead to cross the stationary tractor standing on the road side. Hence, the driver was found negligent while driving the vehicle.

Compensation awarded by the Tribunal in view of permanent disability of 50%, the tribunal has calculated the compensation as below:-

Sr.No.	HEADS	CALCULATION
1	Annual Income	Rs.6,000/-
2	Special diet and medical expenses	Rs.12,000/-
3	pain and suffering and loss of prospectus	Rs.20,000/-
4	Loss of future earnings due to permanent disability	Rs.40,000/-
	Total Compensation awarded	Rs.78,000/-

As per the chart, the compensation of Rs.78,000/- has been awarded to the complainant. At this stage, reliance has been made to the Hon'ble Supreme Court judgment in case of **Raj Kumar Vs. Ajay Kumar and another, 2011 (1) SCC, 343** wherein the cause of accident took place in 1991 and the claimant had suffered 20% disability. The compensation was assessed as under :-

Sr.No.	HEADS	CALCULATION
1	Annual Income prior to the accident	Rs.18,000/-
2	Loss of future earning per annum (20%) of the prior annual income	Rs.3600/-

Sr.No.	HEADS	CALCULATION
3	Multiplier applicable with reference to age	18
4	Loss of future earnings (3600x 18)	Rs.64,800/-

Re-assessed compensation in the present case, the income of the claimant is to be taken as Rs.1500/- per month and the claimant had suffered 50% disability. The age of the claimant was 33 years at the time of the accident. Therefore, the multiplier of 16 would be applied as per **Sarla Verma & Ors. v. Delhi. Transport Corporation & Anr. (2009) 6 SCC 121.** The compensation is now assessed as under :-

Sr.No.	HEADS	CALCULATION
1	Annual Income prior to the accident	Rs.18,000/-
2	Loss of future earning per annum (50% of the prior annual income)	Rs.9000/-
3	Multiplier applicable with reference to age	16
4	Loss of future earnings (9000 x 16)	Rs.1,44,000/-
5	Enhanced amount of compensation	(Rs.1,44,000/-)- (Rs.40,000/-)= Rs.1,04,000/-

The loss of future earnings comes to Rs.1,44,000/- as against Rs.40,000/- awarded by the Tribunal. The compensation with regard to the medical expenses, special diet and compensation on the other heads have been rightly awarded by the Tribunal and do not require any interference. Loss of future earnings i.e. Rs.1,44,000/- minus Rs.40,000 = 1,04,000/- is the enhanced amount of compensation.

In the present circumstances, the present appeal is partly

allowed and the impugned award is modified to the extent as mentioned above. The enhanced amount of compensation shall be paid with interest @ 9% from the date of filing of claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539.***

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

27.08.2015
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(RITU BAHRI)
JUDGE