

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

\* \* \* \* \*

**FAO No. 4399 of 2008**

Date of decision : September 14, 2015

\* \* \* \* \*

Jagmal Singh

.....Appellant

Versus

Sanjeev Kumar and another

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

\* \* \* \* \*

Present: Mr. R.S Mamli, Advocate for the appellant.

Mr. M.B Jain and

Mr. Punjit Jain, Advocates for the respondents.

\* \* \* \* \*

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

**RITU BAHRI, J**

The injured/appellant-claimant, Jagmal Singh has come up in appeal seeking enhancement of the amount of compensation awarded by the Additional District Judge, Yamunanagar on account of 15% permanent disability suffered by him in an accident to the tune of Rs.56,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount vide impugned order dated 25.7.2008.

Brief facts of the case are that on 1.7.2006 the appellant-claimant was on his way to Village Laharpur on his scooter no. PB-

10-AG-1628 at about 7:15 p.m when he was short of 1½ kilometers from Sadhaura Chowk near a ply factory in the area of Village Rajpur located on Bilaspur-Sadhaura road, a motor cycle without number make Bajaj CT-100 fitted with milk drum carriers being driven by respondent no.1 in a rash and negligent manner came from the opposite direction and hit against the scooter of the claimant. Due to that impact claimant sustained multiple and serious injuries. With regard to this accident, FIR Ex. P-36 was registered at the instance of one Satish Kumar wherein the name of respondent no.1 and description of the motor cycle involved in the accident have been specifically mentioned

Jagmal Singh, the injured filed claim petition bearing M.A.C.T Case No. 161 of 2006. Respondents no. 1 & 2 filed separate written statements controverting the claim of the appellant-claimant. As per the statement of PW-4, Manjit Singh, Sanjeev Kumar was facing the criminal trial for causing this very accident. Copy of the charge sheet Ex.P-26 shows that respondent-Sanjeev Kumar has been charge sheeted for the offences punishable under Sections 279, 337 and 338 IPC. Copy of the report under Section 173 Cr.P.C. Ex. P-24 also shows that after investigation of the case the police has filed the challan for the aforesaid offences. As per the statement of PW-3 Dr. Sandeep Gupta, the appellant-claimant suffered fracture supra condylar right. He was admitted in Civil Hospital, Yamuna Nagar on 1.7.2006 and was discharged on 24.7.2006. During this period, he was operated upon on 11.7.2006. Claimant had to

purchase the implants from the open market vide bill Ex. P-26/A and medicines for his treatment from the open market. As per Ex. P-22, the patient suffered 15% permanent disability on account of fracture supra condylar right leading to pain and restricted movements of right knee.

After hearing counsel for the parties and going through the records of the case, trial Court came to a conclusion that the accident took place on account of rash and negligent driving of respondent no.1-Sanjeev Kumar. Appellant-claimant was awarded Rs.30,000/- as compensation on account of 15% permanent disability suffered by him. An amount of Rs.18,500/- was awarded on account of his treatment, medicines, transportation, diet and attendant etc. He was further held entitled to a sum of Rs.7500/- on account of pain and sufferings. Thus the appellant-claimant was held entitled to a total compensation of Rs.56,000/- on account of the injuries suffered by him in the accident in question.

Feeling dissatisfied by the impugned order dated 25.7.2008, the appellant-claimant has come up in this appeal.

I have heard the counsel for the parties and have gone through the records of the case.

The fact of accident is admitted and proved. The appellant-claimant was working as a Peon and as per the salary certificate, he was drawing Rs.5500/- per month after making necessary deductions. The appellant-claimant being in a government job as a Peon has not suffered any loss of future

earnings. Hence there is no permanent loss of future earning. As per the statement of PW-3 Dr. Sandeep Gupta and the disability certificate Ex. P-22, the claimant had suffered 15% disability on account of fracture supra condylar right leading to pain and restricted movement of right knee. Though, the claimant has not suffered any loss in his salaries, but the disability suffered by him in this accident has caused him physical handicap and it will affect the enjoyment of his life. The appellant-claimant will certainly feel difficulty in movements due to restricted movement of right knee leading to pain. The amount assessed by the Tribunal i.e Rs.30,000/- on account of permanent disability suffered by the appellant-claimant is on the lower side. Thus, keeping in view that he will have a problem of restricted movements of his right knee throughout his life, it is being enhanced to Rs.75,000/-.

The compensation is re-assessed as under in view of the judgment of the Supreme Court in the case of **Raj Kumar vs. Ajay Kumar and another, 2011 (2) RCR (Civil) 101:**

| HEAD                                                                 | COMPENSATION AMOUNT                        |
|----------------------------------------------------------------------|--------------------------------------------|
| Amount awarded on account of 15% disability                          | Rs.75,000/-                                |
| Pain and suffering                                                   | Rs.15,000/-                                |
| Medical and incidental expenses during the period of hospitalization | Rs.18,500 /-                               |
| Special Diet and Transportation Charges                              | Rs.10,000/-                                |
| TOTAL COMPENSATION AWARDED:-                                         | Rs. 1,18,500/-                             |
| ENHANCED AMOUNT OF COMPENSATION                                      | (Rs.1,18,500/-)-(Rs.56,000/-)<br>=62,500/- |

The enhanced amount of compensation of Rs.62,500/- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539***. Remaining conditions of disbursal of amount shall remain unaltered.

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

September 14, 2015  
*ritu*

( RITU BAHRI )  
JUDGE