

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 4406 of 2011

Date of decision : August 24, 2015

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Bhagwant Sharma

.....Appellant

Versus

Kala Ram and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Satbir Gill, Advocate for the appellant.

Mr. V.K Garg, Advocate for respondent no.3.

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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 present appeal has been filed by the appellant-claimant seeking enhancement of compensation amount awarded by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to

as 'the Tribunal') vide award dated 19.4.2011 on account of injuries received by Bhagwant Sharma, the appellant-claimant in a vehicular accident on 18.3.2006.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 18.3.2006, the appellant-claimant Bhagwant Sharma was returning to his house, from Channo on his motor cycle bearing registration No. PB-13-N-1756 with his friend Bikkar Singh as the pillion rider. At about 5:30 p.m, when they reached in the area of Village Nadampur one kilometer ahead of Village Rajpura on Sangrur Patiala road, a jeep make Mahindra Bolero bearing registration no. PB-11-Y-2830 came from the opposite side being driven by respondent no.1 in a rash and negligent manner and struck against the motorcycle of Bhagwant Sharma. Abandoning the offending jeep at the place of accident, both respondents no. 1 & 2 fled from there. Both Bhagwant Sharma and Bikkar Singh sustained serious injuries in the accident and were taken to Rajindra Hospital, Patiala. In this regard, FIR Ex. CW 4/A was registered against respondent no.1.

COMPENSATION ASSESSED BY THE MACT

On account of injuries suffered by him in the accident, appellant-claimant Bhagwant Sharma filed claim petition under Section 166 of the Motor Vehicles Act,1988. Apart from his own testimony as CW-1, the appellant-claimant has examined Dr. Sanjiv

Aggarwal as CW-3 who has deposed that the claimant-appellant was found to be permanently disabled to the extent of 30% qua thigh/knee and 60% in all and the witness adduced into evidence certificate of disability so issued by the Board as Ex. C-1. However, in cross-examination CW-3 admitted that declaration of 30% disability qua thigh was not assessed by him nor he was so assessed as such in his presence. Hence while applying the ratio laid down in a judgment of Hon'ble the Apex Court in the case of **Rajesh Kumar vs. Yudhvir Singha and another 2008(4) PLR 372**, the Tribunal observed that in the absence of author of certificate of disability proved by CW-3, the claimant-appellant was held to be 30% disable qua right eye. CW-4 Raghbir Singh, a driver by profession has testified that he had been carrying the claimant from his village to Rajindra Hospital, Patiala in PGI, Chandigarh on his taxi. He adduced into evidence receipts Ex. P-2 to P-12 in this regard. Appellant-claimant has adduced into evidence bills cum receipts Ex.P-1 to P-77 whereby medicines were purchased for his accident related treatment. The claim petition was allowed by the Tribunal. The appellant-claimant was presumed to be earning not less than Rs.3500 per month as per the standard of what even an unskilled labourer is earning. Disability suffered by the appellant-claimant to the extent of 30% qua his eye was bound to cause a loss of Rs.500 per month to the appellant-claimant. He being 26 years old at the time of accident, a multiplier of 17 was applied and the entitlement of the appellant-claimant under this head came to

Rs.500x12x17=1,02,000/-. The appellant-claimant was held entitled to a compensation of Rs.2,00,000 in the following format:-

<i>PECUNIARY LOSSES</i>	
Medical attendance;	Rs. 51808/-
Loss of earning of profits up to the date of trial	Rs. 7000/-
Future loss	Rs.1,02,000/-
Future loss conveyance expenses	Rs.19,000/-
<i>NON PECUNIARY LOSSES</i>	
Damages for mental and physical shock, pain and sufferings already suffered or likely to be suffered in future	Rs.5000/-
Damages to compensate for the loss of emanates of life which may include a variety of matters i.e on account of the injury the claimant may not be able to walk, run or sit	Rs.5000/-
Damages for the loss of expectation of life i.e on account of injury the normal longevity of person is shortened	Rs. 5000/-
Inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life	Rs.5000
TOTAL	Rs.1,99,808 rounded of to Rs.2,00,000/-

REASSESSED COMPENSATION

Feeling dissatisfied with the impugned award, the injured claimant-appellant came up in this appeal.

I have heard the learned counsel for the parties and perused the case filed.

The fact of accident is admitted and proved. By treating the claimant-appellant as a daily wager, the appellant-claimant is presumed to be earning Rs.3000 per month. A co-ordinate Bench of this Court in the case of **Smt. Naresh Kumari Lakhanpal vs. Suraj Mal, 2011 (3) Law Herald 2288**, wherein the disability of the claimant was assessed to the extent of 20% for right lower limb and 40% for impairment of eye sight in both eyes assessed the loss of earning

capacity as 30%. In the present case taking the income of the appellant-claimant was Rs.3000/- p.m, the loss of earning capacity is taken as 30% and by applying the multiplier of 17 to it, the amount of loss of earning capacity is assessed as (3000x30% x12x17=1,83,600)

HEAD	COMPENSATION AMOUNT
Pain and suffering	Rs.20,000/-
Loss of earnings	Rs.1,83,600/-
Medical expenses	Rs.51808/-
Future loss conveyance expenses	Rs.19,000/-
Loss of amenities	Rs.20,000/-
Loss of expectation of life	Rs.20,000/-
TOTAL COMPENSATION AWARDED:-	Rs.3,14,408/-
ENHANCED AMOUNT OF COMPENSATION	Rs.3,14,408-Rs.2,00,000/- =Rs.1,14,408/-

The enhanced amount of compensation of Rs.1,14,408/- 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.

August 24, 2015
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(RITU BAHRI)
JUDGE