

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1269 of 1993
Date of Decision: 14.12.2017

Brij LalAppellant

Vs.

Dr.R.K.Arora and anotherRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.V.K.Kataria, Advocate,
for the appellant.

Mr.R.K.Bashamboo, Advocate, for
the respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 10.05.1993, passed by the learned Motor Accident Claims Tribunal, Faridkot (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,38,240/- was awarded to the claimant on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 02.11.1990, the claimant Brij Lal and his cousin Badri were going on cycle on Pacca-Kaler Road. Car No.RNV-6462 driven by Dr.R.K.Arora, respondent No.1 in a rash and negligent manner and struck against his cycle as a result of which, the claimant sustained multiple injuries which caused permanent disablement. This accident took place due to the negligence of respondent No.1 but being an influential person, he got only DDR registered according to his wishes.

COMPENSATION ASSESSED BY MACT

The factum of accident had been proved and the offending vehicle was insured with respondent No.2-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income	Rs.720/- p.m.

2.	Total loss of dependency after applying the multiplier	Rs.720 X 12 X 16= Rs.1,38,240/-
	Total	Rs.1,38,240/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**Raj Kumar vs Ajay Kumar & Anr CIVIL APPEAL NO.8981 OF 2010**". In the present case the applicant was working for shoe shining in the villages and he had suffered permanent injuries to both his legs who is unable to move about and his disability shall be taken as 100%. Dr.Mittal had considered all the factors and he had issued certificate Ex.PA declaring 80% disability of the claimant. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.900/- per month
2.	Future prospect (40%)	Rs.900/- + Rs.360/-= Rs.1260/-
3.	Total annual loss of dependency after applying the multiplier	Rs..1260/- X 12 X 16= Rs.2,41,920/-
4.	Pain and suffering	Rs.25,000/-
5.	Medical bills	Rs.10,000/-
	Total Compensation	Rs.2,76,920/-
	Enhanced amount of compensation	Rs.2,76,920/- ---- Rs.1,38,240/- =Rs.1,38,680/-

shall be payable within a period of forty five days 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. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

14.12.2017

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No