

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

FAO No. 2790 of 1999

Date of decision:- 01.12.2017

Sat Pal

...Appellant

Versus

Anand Kumar and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sagar Aggarwal, Advocate
for the appellant

Mr. R.C. Kapoor, Advocate
for respondent No. 2

RITU BAHRI J.

1. The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 12.04.1999 passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') to the tune of Rs.01,50,000/-.

FACTS NOT IN DISPUTE

2. On 20.03.1998, appellant along with Shri Ranjit Singh was coming from Ramba village to Bus Stand Ramba and when they reached near Government High School, Ramba Tehsil and District Karnal, a scooter bearing registration No. PB-13-5470 driven by respondent No. 1 in a rash and negligent manner came from the opposite side and hit the appellant who suffered multiple and grievous injuries as well as fracture of clavicle bone and right shoulder. He was taken to Civil Hospital, Karnal.

COMPENSATION ASSESSED BY MACT

3. The learned Tribunal assessed the salary of the claimant to the tune of Rs.1600/- per month being unskilled labourer and he was awarded

Rs.1,53,600/- (800X12X16) towards loss of future earnings. Rs.5,000/- was awarded towards pain and suffering, Rs.15,000/- towards treatment and special diet. The total compensation comes to Rs.1,73,600/- but since the claimant claimed a compensation of Rs.1,50,000/-, he was awarded Rs.1,50,000/-.

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment of Hon'ble the Supreme Court of India in a case of *Syed Sadiq etc. vs. Divisional Manager, United India Ins. Co. 2014(1) RCR (Civil) 765*, where the accident victim was aged 24 years and was vegetable vendor. It was held that a vegetable vendor is reasonably capable of earning Rs.6500/- per month with 50% increment in the future prospect of income. Multiplier of 18 was applied for calculating the amount of compensation.

5. Learned counsel for the appellant has further argued that it is the duty of the Tribunal to award just and proper compensation and there is no restriction on the Tribunal that it can award only up to the amount claimed by the claimants, as done in the present case. Reference has been made to a judgment of Hon'ble the Supreme Court in a case of **Nagappa v. Gurudayal Singh (2003) 2 SCC 274**.

6. Heard learned counsel for the parties.

7. In the facts of the present case, the fact which is not in dispute is that as per disability certificate issued by the disability assessment board, the appellant suffers 90% disability. Further the right arm of the appellant has become absolutely useless on account of the injury suffered by him. He can no more do labour work.

8. Applying the ratio of the above mentioned judgments, the compensation is re-assessed as under:-

<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
Salary (Notional income)	Rs.1600 per month
Annual Salary	Rs.1600X12=19,200/-
Future Prospect 40%	Rs.19200 + Rs.7680 = Rs.26880/-
Loss of earning capacity on account of disability	26880 X 90%=Rs24,192/-
Multiplier of 15	24192 X15=03,62,880/-
Medical Expenses	Rs.15,000/-
Special Diet, attendant charges and transportation	Rs.30000/-
Pain and sufferings	Rs.20,000/-
Total compensation awarded:-	Rs.4,27,880/-
Enhanced amount of compensation	4,27,880-1,50,000=Rs.02,77,880/- rounded off to Rs.02,78,000/-

9. The enhanced amount of compensation of Rs.02,78,000/- 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.

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

December 01, 2017

G Arora

Whether speaking/reasoned

Whether reportable

(***RITU BAHRI***)

JUDGE

Yes

No