

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

F.A.O No. 75 of 2004

Date of decision:- 05.12.2017

Lachhman Singh

...Appellant

Versus

Balwinder Masih and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. A.K.Sharma, Advocate,
for the appellant.

Mr. R. C. Gupta, Advocate,
for the Insurance Company.

RITU BAHRI J. (Oral)

The present appeal has been filed by the claimant-appellant, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal') to the tune of Rs.75,000/-, vide impugned award dated 30.08.2003 on account of injuries sustained by the claimant in motor vehicular accident which took place on 06.12.1998.

Keeping in view the amendment made in Order XXII Rule 4, at this stage, impleading LRs of Respondent No.2 dispensed with. Ordered accordingly.

The facts which are not in dispute are that, on 06.12.1998, Claimant-Lachman Singh was returning from Jagraon after attending the marriage of his relative in a Maruti Car No. PH-01Y-8646 of Joginder Singh. The car was being driven by Joginder Singh at a slow speed on correct side of the road. At about 6.15 P.M. when they reached in the area of Bus Stand, Chowki Mann, a truck bearing No.PAT 327 came from the side of Ludhiana being driven rashly and negligently by respondent No.1 and

struck against the right side of their Maruti Car. The car was damaged and fell down in a ditch on the left side of the road. The truck was being driven by respondent No.1-Balwinder Masih. As a result of this accident claimant had received serious injuries. After arranging for vehicle, they moved to Sutlej Hospital, Ludhiana, but Amrik Singh died on the way to the hospital. An FIR NO. 221 dated 07.12.1998 under Section 279/337/304-A/427 IPC was lodged in Police Station, Jagraon, by Mohinder Singh. Claimant spent about Rs.1,00,000/- on his treatment. He remained admitted in hospital for 25 days and was operated upon twice. He received injuries on his right hand and he became permanently disabled. His disability has been assessed at 45% by the Civil Surgeon, Ludhiana.

Upon notice, respondents appeared and filed their written replies. In their separate written reply respondent Nos.1 and 2 denied the averments contained in the claim petition and pleaded that no accident took place with their vehicle. In its separate written statement of respondent No.3, company admitted that vehicles in question was insured with it w.e.f. 23.11.1998 to 22.11.1999 and that the accident had taken place on 06.12.1998.

As per the order dated 30.08.2003, Tribunal awarded total compensation amount of Rs. 75,000/- with interest @ 9% on account of injuries suffered by him in the road accident. Out of the said amount, Rs.30,000/- on account of medical expenses which was duly proved by way of Ex. P-1 to Ex. P-58.

Dr. Pritpal Singh, Medical Officer, Civil Hospital, Phillaur, who was examined as Ex. PW-4 deposed on the basis of summoned record that Lachhman Singh patient was examined on 20.12.2000 by him and he

assessed his disability as 45 % as his right thumb was amputated. He also proved copy of disability certificate Ex. P-59. The claimant was allowed Rs.35,000/- as compensation on account of permanent disability and Rs.10,000/- on account of pain and suffering. Hence, Tribunal, awarded the compensation to the claimant as assessed as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	On account of medical expenses	Rs.30,000/-
(ii)	Compensation on account of permanent Disability	Rs.35,000/-
(iii)	On account of pain and suffering	Rs.10,000/-
	Total	Rs.75,000/-

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

Learned Counsel for the claimant stated that claimant has a daily wager and was also running a dairy farmer and in accident appellant has suffered 45% permanent disability which was proved by PW4 as his right thumb was amputated and while assessing the compensation by Tribunal he was awarded Rs. 35,000/- on account of nature of permanent disability qua the whole body which is not more than 30%.

In the present case, after going through the Judgment passed in **Raj Kumar versus Ajay Kumar and another** 2011(1) SCC 343, on account of amputation of thumb, functional disability qua the whole body is to be taken as 10%.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is being reassessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation towards medical expenses.	Rs. 30,000/-
(ii)	Compensation towards permanent disability	Rs. 75,000/-
(iii)	Compensation towards pain and suffering.	Rs.25,000/-
	Total	Rs. 1,30,000/-
	Enhanced amount of compensation	Rs.1,30,000-75,000=Rs.55,000/-

The enhanced amount of compensation of Rs.55,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% per annum from the date of filing of the claim petition, 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*. The 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.

05.12.2017
Riya

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>