

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6434 of 2010

Date of Decision: 10.11.2017

Rahisu Deen

.....Appellant

Vs.

Satywan and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ravinder Malik, Advocate, for the appellant.

Mr.Vijay Kumar Garg, Advocate, for respondent No.7.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellant (for short 'the appellants'), against award dated 23.02.2010, passed by the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,92,000/- was awarded to the claimant on account of injury suffered by him.

FACTS NOT IN DISPUTE

On 21.06.2008, the claimant namely Rahishu Deen was going from village Ganjbar to Refinery, Panipat on his motorcycle bearing registration No.HR-06Q-8290 to attend his duty and when he turned towards refinery road and was going on the left side of the road at a moderate speed in the meanwhile, a truck bearing registration No.HR-60C-0173, being driven by respondent No.1 in a rash and negligent manner came from the direction of refinery, Panipat and hit the motorcycle of the claimant. Due to impact of the same, he fell down and sustained grievous and serious injuries on various parts of his body. Immediately after the

accident, he was brought to the hospital for providing medical treatment and regarding this accident an FIR No.192 dated 21.06.2008 has been registered for the offence under Sections 279, 337 and 338 of IPC with Police Station Sadar, Panipat.

On notice, respondent s No.1 and 2 have filed their joint written statement, have resisted the present claim petition on the grounds that maintainability and suppression of material facts and they have taken the stand that the accident did not take place due to rash and negligence driving of truck bearing registration No. HR-60C-0173 by respondent No.1 and in fact the said vehicle was not involved in the accident and had been falsely implicated by the claimant in collusion with the police to extort compensation from them.

Respondent No.3/Insurance Company had filed its own separate written statement had also resisted the present claim petition on the grounds of maintainability, locus standi and on the ground that respondent No1 did not possess any legal and valid driving licence on the date accident nor any intimation in this regard was ever given to it.

Parties does not dispute with regard to issued No.1 as after registration of the aforesaid a FIR (Ex.P-3), challan was presented against the driver (Ex.P-4). The FIR and challan was supported by RW1 Moji Ram SI and RW2 Sultan Singh SI. The motorcycle was recovered vide recovery memo Ex.R6.

COMPENSATION ASSESSED BY MACT

The Tribunal has held that claimant had deposed that on 21.06.2008 he had sustained multiple, serious and grievous injuries in a motor accident on his left leg, head, forehead and left hand and therefore, he

was admitted in Dr.Prem Hospital, Panipat and after that he remained admitted to Military Hospital, Delhi and after that in Mukesh Hospital Narela, Delhi and was still under treatment. The factum of accident had been proved and the offending vehicle was insured with respondent No.3- Insurance Company. On the basis of above, the compensation has been assessed by the learned Tribunal as under:

Sr.No.	Heads of compensation	Amount
1	Medical bills Exp5 to Ex.P12	Rs.2,32,000/-
2.	Hospitalization	Rs.40,000/-
3.	Loss of income	Rs.20,000/-
	Total	Rs.2,92,000/-

Learned counsel for the claimant-appellant has argued that compensation under the head of permanent disability has been given on the lower side. The argument of counsel for the appellant is being examined as per statement of PW-1 Dr.Ved Gupta, Senior Medical Officer, Bhim Sain Sachar Hospital, Panipat, who deposed that 40% temporary disability was assessed and he had advised for revisiting after 6 months for reassessment. This temporary 40% disability either can be increased or decreased.

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.

Since, disability was temporary in nature, the compensation has been awarded Rs.20,000/- rightly required no modification. It is not in dispute that the offending vehicle was fully insured with the Insurance company. The compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Medical bills Exp5 to Ex.P12	Rs.2,32,000/-
2.	Hospitalization, transportation and special diet attendant	Rs.50,000/-
3.	Pain and suffering	Rs.50,000/-
3.	Loss of income	Rs.20,000/-
	Total	Rs.3,52,000/-
	Enhanced amount of compensation	Rs.3,52,000/- ----Rs.2,92,000/-= Rs.60,000/-

Resultantly, the enhanced amount of compensation of Rs.60,000/- 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. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

10.11.2017
anil

Whether speaking/reasoned Yes/No
Whether reportable Yes/No