

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6647-2012 (O&M)

Date of Decision:- 10.08.2017

Inderjit Singh

.....Petitioner

Versus

Jagdish and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Atul Jain, Advocate, for the petitioner.

Mr. Amit Jaiswal, Advocate, for respondent No.3.

RITU BAHRI, J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') to the tune of ₹1,82,800/-, vide impugned award dated 15.06.2012.

FACTS NOT IN DISPUTE

The claim petition, filed under Section 166 of the Motor Vehicles Act, 1988, arose out of an accident that took place on the intervening night of the 9th/10th of March, 2007, at about 12:30 AM.

As per the case of the appellant-claimant, he alongwith Rajwinder Singh and Harwinder Singh were travelling in Esteem Car No.PB-10-U-4008, with Harwinder Singh driving the car. Rajwinder Singh was stated to be sitting in the front seat alongwith the driver and

the appellant-claimant was sitting on the rear seat going from Rajpura to Patiala. When they reached near village Gajipur, a Tata-407 vehicle, bearing registration No.HR-64-1765, driven by respondent no.1, Jagdish, allegedly in a rash and negligent manner, hit the car causing the accident. The appellant received multiple injuries on his head and other parts of the body and became unconscious, with the other occupants also suffered serious injuries. They were all admitted to the Amar Hospital, Patiala. FIR no.41 dated 10.03.2007 was registered at PS Sadar Rajpura, for the alleged commission of offences punishable under Sections 279, 337, 338 and 427 of the IPC.

Consequently, the claimants-appellants had filed a claim petition before the Tribunal.

Before the Tribunal, on the basis of the evidence led by the parties, the Tribunal has come to a conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1. The Tribunal has holding that since the appellant was 24 years of age and studying for a degree of B. Tech, in the final year thereof, his notional income could be held to be ₹5000/- per month and therefore, with the disability assessed only to the extent of 20%, the loss of future earning capacity would be ₹800/- per month (₹9600/- per annum). In view of the age of the appellant-claimant, a multiplier of '18' was applied and the loss of income was assessed to be ₹1,72,800/-. Since, ₹2,42,324/- had admittedly been reimbursed to the father of the appellant towards medical expenses, no amount was awarded under that head and

towards pain and suffering ₹10,000/- was awarded, thereby coming to a total compensation of ₹1,82,800/-.

Feeling dis-satisfied with the aforesaid Award, the present appellant has preferred the present appeal.

Pursuant to order dated 21.04.2017 of this Court, the PGIMER Chandigarh had given a disability certificate dated 29.07.2016 and assessing the disability of the claimant Inderjeet Singh.

Thereafter, a report has been received from the Tribunal after recording the evidence regarding disability of Inderjeet Singh.

As per the above-said report, statement of Dr. Chakrabarty, Department of Psychiatry, Member Special Medical Board, PGIMER, Chandigarh has been recorded on 19.05.2017. He has stated that the disability certificate was issued on 29.07.2016 and the patient has suffered a total disability of 86%. The patient has suffered head injury. Inderjeet Singh cannot do any work but he can walk and speak with difficulty. He had suffered injury in 2007 and he was examined by us in the year 2016. There is little chance of Inderjeet Singh doing any recovery and work.

Statement of father of the injured Inderjeet Singh has been recorded in which he has stated that his son has become totally dependent because of his disability and he could not do any work.

Learned counsel for the appellants contends that the Tribunal has erred in awarding the compensation, in view of the judgment of 'Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77', 'Rajesh and others vs. Rajbir

Singh and others, 2013 (9) SCC 54' and 'Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459', Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others vs. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.

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

RE-ASSESSED COMPENSATION

It is not in dispute that the offending vehicle was fully insured with the Insurance Company.

After taking into consideration the above-said report of disability, the disability of injured Inderjeet Singh is assessed to be 100% disability as he has not capable to do any work in future and he shall be 100% dependent on his family members. Therefore, following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments and going through the facts of the present of case, the compensation has to be reassessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Loss of income	₹5000 x 12 = ₹60,000/-
(ii)	Compensation after multiplier of '18' is applied	₹10,80,000/-
(iii)	Special diet and attendant charges	₹70,000/-
(iv)	Transport charges	₹10,000/-
(v)	Loss of marriage prospects	₹1,00,000/-
(vi)	Mental agony, pain and suffering	₹1,50,000/-
(vii)	Loss of amenities	₹1,00,000/-
(viii)	Cost of litigation	₹25,000/-
(ix)	Total Compensation awarded	₹15,35,000/-
(x)	Enhanced amount of compensation	₹15,35,000 – ₹1,82,800/- = ₹13,52,200/-

The enhanced amount of compensation of ₹13,52,200/- 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.

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

August 10, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No