

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

FAO No.5783 of 2014

Date of Decision: 09.08.2017

Ram Singh

.....Appellant

Vs.

Mohan Singh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Munish Gupta, Advocate,
for the appellant.

Mr.Neeraj Khanna, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 10.02.2014, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,75,660/- was awarded to the claimants on account of injury suffered by the claimant-Ram Singh.

FACTS NOT IN DISPUTE

On 17.05.2012, the claimant/appellant Ram Singh was

going from Hoshiarpur towards his village Dallewal, on a scooter

bearing No.PB-08AF-2743 at a slow speed. On the way near village Allahabad, the offending bus bearing No.HP-28B-7509 came from opposite side and it was being driven by its driver Mohan Singh i.e. respondent No.1 at a very high speed and in rash and negligent manner and the respondent No.1 struck the bus against his scooter. Due to which he fell down and received multiple and serious injuries. FIR was registered regarding the accident. The accident had taken place on account of rash and negligent driver of offending vehicle. The claimant was firstly admitted in Civil Hospital, Hoshiarpur. But due to his serious condition, he was referred to DMC Hospital, Ludhiana. He remained admitted in DMC Hospital Ludhiana from 17.05.2012 till 26.05.2012. After conducting the inquiry, FIR No.84 dated 15.08.2012 under sections 279/337/338 IPC was registered against respondent No.1.

COMPENSATION ASSESSED BY MACT

Upkar Singh Pw-5, Orthopedic Surgeon, Civil Hospital, Hoshiarpur had deposed that he along with other members of Board had examined claimant Ram Singh and disability certificate dated 22.11.2012 was Ex.PW5/1.. He further stated that patient was old case of road side accident with brachial plexus injury right side and disability was 60% and it was temporary in nature and

reassessment was required after one year from the issuance of

disability certificate dated 22.11.2012. Further PW-9 Dr.J.S.Dhami, Medical Officer, Civil Hospital, Hoshiarpur has stated that on 17.12.2013, he along with other members of board medically examined claimant Ram Singh and assessed his permanent disability 80% due to brachial plexus injury right side. Disability certificate was Ex.PW 9/A.

The Tribunal held that the permanent disability of appellant was assessed at 80% due to plexus injury right side in a road accident which took place on 17.05.2012 and per judgment of Hon'ble High Court in case of Ram Kiran Goyal Vs. Sub Divisional Engineer, Mechanical and others, compensation has assessed at the rate of Rs.2000/- for every 1% disability. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Compensation on permanent disability (80%) 1%= Rs.2000/-	Rs.1,60,000/-
2.	Expenses on medical bills(vide Ex.P-3 to P-28, Ex.P-30 to Ex.P35)	Rs,90,600/-
3.	Loss of amenity	Rs.5,000/-
4.	Expectation of life	Rs.5,000/-
5.	Attendant charge during the hospitality	Rs.2,500/-
6.	Transportation	Rs.2,500/-

7.	Pain and suffering	Rs.5,000/-
8.	Special diet	Rs.5,000/-
	Total	Rs.2,75,600/-

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 of Hon'ble Supreme Court in the case of K.Suresh Vs. New India Assurance Company Limited and another 2012 (12) SCC 274 where, victim suffered permanent disability 40% and he had held entitled for compensation towards permanent disability as well as loss of earning capacity. This judgment has been followed by the judgment of High Court in the case of S.P.Mittal Vs. P.K.Aggarwal and another 2016(2) RCR (Civil) 721 & Neeral Rani Vs. Anish Kumar and Others 2016(4) Law Herald 3674. 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	Disability to the extent of 80%	Rs.6000/- per month
2.	Dependency 1/5th	Rs.6000/- - Rs.1200/-= Rs.4800/-
3.	Total loss of dependency by applying multiplier	Rs.4800 X 12 X 17= Rs.9,79,200/-
2.	Medical expenses	Rs.90,600/-
3.	Special diet	Rs.15,000/-
4.	Attendant and transportation charges	Rs.15,000/-
6.	Loss of amenity and expectation of life	Rs.10,000/-
7	Pain and suffering	Rs.5,000/-
8.	Loss of Income	Rs.6,000/-
	Total	Rs.11,20,800/-
	Enhanced compensation	Rs.11,20,800/- --- Rs.2,75,600/- = Rs.8,45,200/-

Resultantly, the enhanced amount of compensation of Rs.8,45,200/- 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 @ 6% 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

09.08.2017
anil

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