

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7993 of 2014
Date of Decision: 30.08.2017

Vijender

.....Appellant

Vs.

Krishan and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sumit Sangwan, Advocate, for the appellant.

Mr.S.S.Mor, Advocate, for respondent No.1

Mr.Ram Avtar, Advocate, for respondent No.3

RITU BAHRI, J. (ORAL)

CM No.21456-CII of 2014

For the reasons stated in the application, delay of 294 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 19.07.2013, passed by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') vide which compensation to the tune of Rs.08,92,801/- was awarded to the claimant on account of injuries suffered by him

FACTS NOT IN DISPUTE

On 10.09.2010, the claimant-Vijender and one Sanjay were coming from village Kitlana to village Chappar on motorcycle registration No.HR-16C-3603 driven by Vijender. When they reached on canal in between village Dhoki and Rasiwas, in the meanwhile a Pick Up Dalla bearing registration

the opposite side driven by respondent No.1 and struck into the motorcycle of appellant. Upon which, appellant and respondent fell down on the road and sustained multiple and grievous injuries on various parts of body and the same vehicle came back from a distance of 1-2 acres and went back to village Barsana side. The vehicle was bearing registration No.HR-61-9019. The claimant became unconscious and two road passers came at the spot and informed Jagbir Singh son of Hari Singh, relative of Vijender telephonically who taken the claimants to Govt. Hospital Bhiwani. The other claimant Sanjay Kumar was got admitted in PGI MS Rohtak and Sir Ganga Ram Hospital, Delhi. He remained unconscious for about six months due to head injury. He regained consciousness on 05.03.2010 and complained the matter to police and the FIR Ex.P2 was registered in this regard.

COMPENSATION ASSESSED BY MACT

The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

The Tribunal held that the deceased was 24 years old as per his disability certificate Ex.P-81. The claimant-Vijender had suffered 78% permanent disability as per his disability certificate Ex.P-81 and after taking the method of multiplier, the compensation has been assessed as under:-

Sr.No.	Heads of compensation	Amount
1	Income 4800/- per month	
2.	Compensation on disability by multiplier method Rs.4800 p.m. X 12 X 18= Rs.10,36,800/- --- (Rs.10,36,800/- X 22%) Rs.2,28,096 =	Rs.8,08,704/-
3.	Medical Bills	Rs.44,097/-
4.	Transportation, special diet and attendant	Rs.20,000/-
5.	Pain and suffering	Rs.20,000/-

	Total	Rs.08,92,801/-
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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 "Neerupam Mohan Mathur Vs. New India Assurance Company 2013(14) SCC 15", wherein one arm of claimant was amputated and claimant awarded the non-pecuniary damages along with other compensation. 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
2.	Loss of earning/Compensation on disability by multiplier method Rs.4800 p.m. X 12 X 18= Rs.10,36,800/- --- (Rs.10,36,800/- X 22%) Rs.2,28,096 =	Rs.8,08,704/-
3.	Medical Bills	Rs.44,097/-
4.	Transportation, special diet and attendant	Rs.20,000/-
	Non-pecuniary damages(General Damages	
5.	Damages for pain, suffering and trauma as a consequence of the injuries	Rs.1,00,000/-
6.	Loss of amenities	Rs.2,00,000/-
7.	Loss of expectation of life	Rs.1,00,000/-
	Total assessed compensation	Rs.12,72,801/-
	Enhanced compensation	Rs.12,72,801/- ---- Rs.08,92,801/- =Rs.3,80,000/-

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

30.08.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No