

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.257 of 2002

Date of Decision: 30.04.2018

Jagdish Parsad

.....Appellant

Vs.

Sandeep Kumar and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

**Present:-** Mr.Sapan Dhir, Advocate, for the appellant.

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

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**RITU BAHRI, J. (ORAL)**

Present appeal has been preferred by the claimant-appellant(for short 'the appellant'), against award dated 02.08.2001, passed by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,44,014/- was awarded to the claimant on account of injury suffered by him in a motor vehicular accident.

**FACTS NOT IN DISPUTE**

On 23.12.1997, the claimant was coming on his scooter bearing registration No.DL-35-L-9094 from Delhi and was driving the same on the due left side of the road and after observing traffic rules. When he reached at the turning of Sector-37, Faridabad, offending vehicle bearing registration No.DEG-2283 which was being driven in a rash and negligent manner by Sandeep Kumar, respondent, came from the side of Sector-37, Faridabad and struck against his scooter. Due to the impact, the claimant fell down and received serious and multiple injuries on various parts of his body. A

criminal case bearing FIR No.758 dated 24.12.1997 under sections279/337 of IPC has been registered against the driver of the offending vehicle at Police Station Sarai Khawaja.

Parties are not disputing with regard to the findings given on issue No.1 as FIR Ex.P22 was registered against the driver as per version given by the claimant in the FIR.

**COMPENSATION ASSESSED BY MACT**

Factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

| Sr.No. | Heads of compensation                                                                    | Amount        |
|--------|------------------------------------------------------------------------------------------|---------------|
| 1      | Medical expenses as per bills Ex.P-1 to P-9 and Ex.P-10 and Ex.P-11 and Ex.P13 to Ex.P19 | Rs.59,865/-   |
| 2.     | Expenses on medicine                                                                     | Rs.42,149/-   |
| 3      | Pain and suffering and special diet                                                      | Rs.7,000/-    |
| 4.     | Loss of income                                                                           | Rs.10,000/-   |
| 5.     | Loss on account of disability                                                            | Rs.25,000/-   |
|        | Total                                                                                    | Rs.1,44,014/- |

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 the Supreme Court in the case of S.Perumal Vs. K.Ambika and another 2015 (2) RCR (Civil) 228 wherein, injured claimant has been compensated for his permanent disability and also for loss of earning due to his inability and the judgment of this Court in the case of Rajesh vs. Surjeet Singh and others 2005(2) RCR (Civil) 486

wherein, a young suffered 25% permanent disability due to shortening of his legs and lost his newly established business. 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.

A perusal of the record shows that as per Disability Certificate Ex.P114, there was 25% disability of the claimant on account of shortening of leg to the extent of 2 ½” which has been approved by Dr. Harsh Piplani PW-3 with the remarks that there are chances of decrease the disability with the passage of time.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Keeping in view the disability certificate Ex.P114 and the ratio of the judgments referred above, the compensation has to be re-assessed as follows:-

| Sr.No. | Heads of compensation                                                                    | Amount                                          |
|--------|------------------------------------------------------------------------------------------|-------------------------------------------------|
| 1      | Medical expenses as per bills Ex.P-1 to P-9 and Ex.P-10 and Ex.P-11 and Ex.P13 to Ex.P19 | Rs.59,865/-                                     |
| 2.     | Expenses on medicine                                                                     | Rs.42,149/-                                     |
| 3      | Pain and suffering and special diet                                                      | Rs.1,00,000/-                                   |
| 4.     | Loss of income                                                                           | Rs.10,000/-                                     |
| 5.     | Disability on account of Shortening of legs or disability                                | Rs.2,50,000/-                                   |
|        | Total                                                                                    | Rs.4,62,014/-                                   |
|        | Enhanced amount of compensation                                                          | Rs.4,62,014/- ---- Rs.1,44,014/- =Rs.3,18,000/- |

**Rs.3,18,000/-** 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 @ 7.5%% 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 **Shri Nagar Mal and Ors. Vs. The Oriental Insurance Company Limited and Others passed in Civil Appeal No.448 of 2018**. 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**

**30.04.2018**

*anil*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*