

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5412 of 2002 (O&M)

Date of Decision: 02.05.2018

Jaiveer Parshad

.....Appellant

Vs.

Rajender Singh & Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ram Bilas Gupta, Advocate, for the appellant.

Mr.Sandeep Suri, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

CM-22043-CII-2002

For the reasons mentioned in the application, delay of 90 days in
refiling the appeal is condoned.

Application stands allowed.

Main case

Present appeal has been preferred by the claimant-appellant(for
short 'the appellant'), against award dated 18.03.2002, passed by the learned
Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') vide
which compensation to the tune of Rs.1,25,000/- was awarded to the
claimant on account of injury suffered by him in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 26.06.1998, the claimant was coming to his village in a jeep
No.HR20-E/2703 which was being driven by respondent No.1, alongwith
other passengers. Respondent No.1 was driving the jeep in a rash and

negligent manner. Some of the passengers asked respondent No.1 to drive the jeep in a proper manner. But respondent No.1 did not take any action. When the jeep arrived near Ismailabad, District Kurukshetra, respondent No.1 lost his control over the jeep to see some animal on the road and jeep went to Kacchha berms and turned turtle. In this accident, petitioner was admitted in Civil hospital, Kaithal. Matter was reported to the Policed vide DDR No.323 dated 29.06.1998 at Police Station, Ismailabad.

COMPENSATION ASSESSED BY MACT

The Tribunal has assessed the compensation keeping in view the disability assessed by the PW-2 Dr.S.C.Batra who proved that there was 25% permanent disability in left lower limb and left upper limb. PW-3 Dr.Gorav Bhardwaj from RGI Rohtak deposed that Jaivir was admitted at PGI Rohtak on 09.04.1999 and discharged on 02.07.1999 and the claimant was remained under his treatment. The claimant had also produced on the file medical bills Mark P 15 to mark P 113, amounting to Rs.18344-25 ps. Apart from that claimant had to spend a sum of Rs.32,972/- the amount which was paid at Jaipur Golden Hospital, Delhi for his treatment. So, the petitioner was paid Rs.51,316/- on account of medical expenses as he was entitled to receive this amount. Apart from that, petitioner had suffered 25% permanent disability of lower limb along with restricted abduction. Petitioner is of the 35 years of age and with this disability he would have to carry on his remaining part of life. So, according to the learned Tribunal has assessed a total Rs.1,25,000/- as compensation.

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to

be enhanced. 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.

Vide order dated 14.07.2017, during the pendency of appeal, a direction was given to Principal Medical Officer, Government Hospital, Bhiwani to constitute a Board of Doctors to examine the disability of the present appellant and give its report with regard to the disability of the appellant qua lower limb and left upper limb. In compliance of the order dated 14.07.2017, the Civil Surgeon has sent his report dated 22.11.2017 assessing the fresh disability as 25% permanent in nature. A perusal of the Disability Certificate shows that 20% disability is still persisting after the accident which took place way back in the year 1998 and there shortening of leg 1 ½ inches.A reference can be made to the judgment of the Supreme Court in the case of S. PERUMAL Vs. AMBIKA & ANR. Passed in CIVIL APPEAL NO. 2377 OF 2015 whereby, claimant was daily wager and considering the nature of occupation of the claimant and the 25% disability, lumpsum compensation of Rs.2,00,000/- was granted towards loss of future earnings and Rs.1,00,000/- has also been awarded towards pain and suffering and attendant charges and transport charges.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Keeping in view the facts and circumstances of the case, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Medical bills and	Rs.51,316/-

	expenses	
2.	Loss of future earning qua disability and shortening of leg	Rs.2,00,000/-
3	Pain and suffering and other conventional heads	Rs.1,00,000/-
	Total	Rs.3,51,316/-
	Enhanced amount of compensation	Rs.3,51,316/- --- Rs.1,25,000/-= Rs.2,26,316/-

Resultantly, the enhanced amount of compensation of Rs.2,26,316/-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

02.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No