

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

**F.A.O No. 4692 of 2003
Date of decision:- 07.03.2018**

Sukhwinder Singh ...Appellant

Versus

Gursimar Singh and Others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K. S. Chahal, Advocate,
for the appellant.

Mr. Sandeep Suri, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 14.08.2003, on account of injuries sustained by the claimant-Sukhwinder in a motor vehicular accident which took place on 12.05.2001.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on on 12.05.2001, when he was going to his house on his bi-cycle, on the katcha portion of the road and was on his left hand side. A bus bearing registration No. PB-10-AM-7053 driven rashly and negligent by respondent No. 1 hit the claimant from behind, as a result of which he fell down and sustained multiple injuries on his right leg, which was fractured and his left are

was injured. Claimant further submitted that his lower jaw and upper jaw also suffered fractured and in this way face of the claimant was disfigured. He also claimed to have sustained injuries on his back bone, as a result of which he is not in a position to properly sit down. In this regard, an FIR No. 178 has been registered against respondent No. 1 at Police Station, Sunam.

Consequently, claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by respondent No.1. Appellant/claimant suffered fracture in both legs and right hand injury, admitted in Hospital and suffered permanent disability to the extent of 40%. On the basis of documents placed on record i.e. Ex. A1 to Ex. A62 Tribunal awarded lump compensation of Rs.80,000/-.

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved.

A perusal of the Award shows that Claimant has suffered permanent disability to the extent of 40% . In order to prove the disability, claimant has examined AW5, Naresh Kumar Clerk, office of CMO and Dr. Raj Kumar Mittal also examined as Ex. AW 6. Dr. Raj

Kumar Mittal has stated that claimant Sukhwinder Singh was referred to him by Civil Surgeon, Sangrur for assessment of permanent disability and that he found that patient was having mal-united fracture shaft left humerus with cubitus varus deformity with lateral instability of the right knee joint due to old fracture of the lateral ligament of right knee joint, with disfigurement of face due to malunited fracture medible. In cross-examination he further stated that the injuries suffered by the claimant will be improved with the passage of time. AW5 Naresh Kumar, Clerk of CMO who proved the disability certificate Ex. AW5/A.

Keeping in view the facts and circumstances, compensation assessed by the Tribunal is on lower side which required to be reassessed after considering the disability certificate Ex. AW5/A which shows that claimant suffered permanent disability to the extent of 40%.

In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed. Claimant was 22 years of old at the time of the accident and no proof has been found with regard to his income. Hence this court taking his income as Rs.2000/- as per the minimum Wages Act, Punjab after applying the multiplier and disability be taken qua the whole body to the extent of 40%, loss of earning due to disability comes to Rs.2,41,920/- and reassessed compensation amount as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.2000/- per month
(ii)	40% added towards future prospects	Rs.2000+800=2800/- per month

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iii)	Multiplier applied	Rs.2800X12X18= 6,04,800/-
(iv)	Loss of earning due to disability (Disability taken qua the whole body to the extent of 40% of Rs.6,04,800/-)	Rs.2,41,920/-
(v)	Compensation towards loss of future earning	Rs. 30,000/-
	Total Compensation Awarded (iv+v)	Rs.2,71,920-
	Total Enhanced Amount of Compensation	Rs.2,71,920-80,000=1,91,920/-

The enhanced amount of compensation of Rs.1,91,920/- shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

07.03.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No