

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1188 of 1994
Date of Decision: 12.03.2018

Partap Singh alias Bittu

.....Appellant

Vs.

Davinder Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.O.P.S Tanwar, Advocate, for the appellant.

Mr.G.S.Saini, Advocate, for respondent No.1.

Mr.Vishal Aggarwal, Advocate, with
Mr.Neeraj Khanna, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 09.12.1993, passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,15,000/- was awarded to the claimants on account of injury suffered by him.

FACTS NOT IN DISPUTE

On 28.11.1991, the claimant in his capacity of cleaner was sitting in the cabin of tempo number DL-IL-3858 driven by respondent No.2 rashly and negligently from Parvanoo to New Delhi and when it crossed Shahabad and was in the area of Police Station Shahabad on G.T.Road, the tempo struck a tree standing on the side of the road as a result of the accident the front portion of the tempo in question in which the claimant was sitting was totally damaged and the claimant sustained multiple injuries including the fracture of the spine. So, he was first taken to Civil Hospital, Shahabad and the same day he was shifted to Arvind Seth Nursing Home, Janakpuri, New

Delhi. No FIR has been lodged with regard to this accident.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 17 years and 4 months as per discharge slip Ex.P1, and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. As per testimony of PW-1 Dr.Amar Saxena, Neuro Surgeon, Sir Ganga Ram Hospital, New Delhi, the claimant was admitted on 03.12.1991 as a case of road side accident with history of total paralysis of all four limbs and history of retention of urine and so he was operated upon by him on 07.12.1991 for fracture of spine of the neck and the detailed report in this Ex.P1 is in his hand. As such, his permanent disability has been assessed at 30%. The 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	Permanent disability	Rs.50,000/-
2.	Medical treatment	Rs.37,000/-
3.	Loss of earning	Rs.10,000/-
4.	Salary of helper for one year.	Rs.6,000/-
5.	Pain and suffering	Rs.12,000/-
	Total	Rs.1,15,000/-

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 "**National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017.** On the other hand, the learned counsel for the respondent/Insurance Company have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

As per testimony of PW-1 Dr.Amar Saxena, Neuro Surgeon, Sir Ganga Ram Hospital, New Delhi, the claimant was admitted on 03.12.1991 as a case of road side accident with history of total paralysis of all four limbs

and history of retention of urine and so he was operated upon by him on 07.12.1991 for fracture of spine of the neck and the detailed report in this Ex.P1 is in his hand. As such, his permanent disability has been assessed at 30% to 40%.

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	Permanent disability	Rs.80,000/-
2.	Medical treatment	Rs.37,000/-
3.	Loss of earning	Rs.10,000/-
4.	Salary of helper/attendant for one year.	Rs.6,000/-
5.	Pain and suffering	Rs.50,000/-
6.	Transportation and diet	Rs.50,000/-
7.	Loss of future maintenance	Rs.1,00,000/-
	Total	Rs.3,33,000/-
	Enhanced amount of compensation	Rs.3,33,000/- ---Rs.1,15,000/- =Rs.2,18,000/-

Resultantly, the enhanced amount of compensation of Rs.2,18,000/- 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 Ltd. And ors. 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

12.03.2018
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