

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4071 of 2002 (O&M)

Date of Decision: 28.02.2018

National Insurance Company Ltd.

....Appellant

V/S

Bhawani Shankar and Others

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Lalit Garg, Advocate,
for National Insurance Company.

RITU BAHRI, J.(Oral)

The present appeal has been filed by the appellant against the Award dated 21.03.2002 whereby claimant (respondent in the present appeal) has been awarded compensation of Rs.1,00,200/- along with interest @9% p.a., by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') on account of injuries sustained by the claimant-Bhawani Shankar in road accident which took place on 12.12.1999.

Brief facts of the dispute are that, Petitioner/respondent No.1 along with Rajender Rao was returning from Gurgaon to his native village Raliawas in his car bearing registration No.PB-10/0873. When they reached national highway No. 8, a truck bearing registration No. HR-4676 being driven by respondent No. 2 rashly and negligently at a very high speed came from behind and struck against the car of the petitioner-respondent when the car was being overtaken by the truck. As a result of which petitioner received multiple injuries and his car also got damaged. After causing the accident the driver of the truck ran away from the scene. Injured-petitioner was brought to civil hospital, Rewari by someone. In this

regard, an FIR No. 316 dated 13.12.1999 under Sections 279/337/338 IPC was registered against respondent No. 2 regarding the said accident in police station, Bilaspur on the statement of the petitioner.

Consequently, claimant-petitioner 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.2 and Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation on account of permanent partial disablement to the extent of 15%	Rs.61,200/-
(ii)	Pain and sufferings	Rs.15,000/-
(iii)	Medical expenses	Rs.10,000/-
(iv)	Transportation Charges	Rs.5,000/-
(v)	Special Diet Expenses	Rs.3,000/-
(vi)	Loss of income	Rs. 6000/-
	Total compensation	Rs.1,00,200/-

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

In the present appeal parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 2. While driving the offending bus bearing registration No.HR47/4676.

Learned counsel for the appellant in the present appeal argues that no doctor has been produced on record to prove the injuries sustained by the claimant. The treatment of the claimant has also not been proved nor

any permanent disability or any fracture and further stated that disability certificate has also not been proved on record and compensation awarded towards permanent disability i.e. Rs.61,200/- is on higher side.

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

A perusal of the award shows that, claimant-Bhawani Shankar received multiple injuries in the accident and his right leg got broken from thigh which has shorten by 2 inches after operation. His ribs of left side have been broken and he also suffered serveral injuries in his head. A silver rod was also inserted in his leg and doctor has advised him for fresh operation. Due to the accident he could not do his work for 13 months and still not be able to work properly. To prove the above said facts he also placed on record Disability certificate as Ex.PW3/A of the petitioner which shows that he suffered disability to the extent of 15% on account of post traumatic mild stiffness of right knee (5%) and hip with shortening of right leg by 1-3/4. However, Ex. PW3/A shows that the said disability is permanent in nature and claimants still not able to work properly and amount awarded towards permanent disability by the Tribunal is on right side do not required to be set aside.

Hence, after going through the findings of the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

28.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No