

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1046 of 2002
Date of Decision: 21.02.2018

Kuljit Singh

.....Appellant

Vs.

Ripu Daman Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Arinder Singh, Advocate, for appellant.

Mr.Vinod Chaudhary, Advocate, for respondent/Ins.Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 04.09.2001, passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,10,000/- was awarded to the claimants on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 29.10.1994,, claimant Kuljit Singh was coming from house of his friend Gurmit Singh on his Scooter bearing No.PCI-8621 to Thapar College Guest House, Patiala and when he reached the Bhadson Chowk, near Thapar College, Patiala and took a turn towards Thapar College after giving signal, a Jeep bearing registration No.PB-11-E-9044, being driven by respondent No.1 came from the opposite side rashly and negligently and struck against the Scooter of the appellant. As a result of which, appellant fell down on the ground and received grievous injuries. On seeking the appellant in a critical condition, the respondent No.1 fled away from the spot

and got admitted there. A case was registered against respondent No.1 under Section 279/338 of the IPC at Police Station, Civil Lines, Patiala.

As per report of Dr.JPS Walia, examined by the claimant as AW3 had stated that claimant remained admitted in orthopedic department, Unit 1 as a road side accident and his left humerus was fractured and both the bones of his left leg were also fractured. The witness has also stated his left arm above elbow was amputated on 03.12.1994 by the deposing witness and team of other doctors. Dr.Gurdeep Singh who appeared in the witness box as AW6 had deposed that claimant has suffered permanent disability to the extent of 80%. He proved his report regarding the disability as Ex.AW6/A.

COMPENSATION ASSESSED BY MACT

The Tribunal held that there was no loss of income to the claimant from the injuries sustained by him and the entire expenses incurred by him on his treatment and artificial limb were reimbursable, the claimant being an employee of the State Govt. However, the claimant had undergone immense pain and suffering because of the injuries sustained by him in this accident, as a result of which his left arm above elbow was amputated and his left leg was fractured. So, the claimant was held entitled to claim compensation for pain and suffering and loss of enjoyment including some of the expenses, which he might have to incur from his pocket and may not be reimbursed. As such learned Tribunal had awarded Rs.1,10,000/- lump sum amount on this account.

Learned counsel for the claimant-appellant has referred to the judgment of Supreme Court in the case of **Neerupam Mohan Mathur Vs.**

New India Assurance Company Limited 2013(14) SCC 15, wherein it is

held that since one arm of the claimant has been amputated, the claimant

should be awarded the non-pecuniary damages along with other compensation. 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.

Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgment, the compensation qua non-pecuniary damages has to be re-assessed as follows:

	Non-pecuniary damages (General damages)	Amount of compensation
1.	Damages for pain, suffering and trauma as a consequence of the injuries	Rs.1,10,000/-
2.	Loss of amenities	Rs.2,00,000/-
3.	Loss of expectation of life(shortening of normal longevity)	Rs.1,00,000/-
	Total	Rs.4,10,000/-
	Enhanced amount of compensation	Rs.4,10,000/- ---- Rs.1,10,000/- = Rs.3,00,000/-

Resultantly, the enhanced amount of compensation of Rs.3,00,000/- 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

21.02.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No