

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2211-1999

Date of decision: 17.05.2018

Mehtab

...Appellant

V/s.

Sanjay @ Sanjeev Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Himanshu Arora, Advocate for the appellant.

Mr. K.S. Malik, Advocate for respondent No.4.

RITU BAHRI, J. (Oral).

The appellant has come up in appeal against the award dated 10.09.1998 passed by Motor Accident Claims Tribunal, Faridabad (for short 'the Tribunal') whereby he has been awarded a compensation of Rs.70,000/- on account of injuries suffered by him in a road accident that took place on 24.11.1993.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.11.1993, Mehtab while driving truck No. HR-27-1272 was coming, anything truck No. UP-80-D-9347 driven by Chander Pal, since deceased, came from the opposite side, and struck against his truck as a result of which he received injuries. At the same time, respondent No. 1, driver of truck No. HR-26-A-9099 also came at a very high speed and struck against truck No. 9347 from its back side.

The driver/respondent No.1/Sanjiv of vehicle No. 9099 and Chander Pal

(deceased) driver of vehicle No. 9347 did not bother about the traffic rules and caused the accident.

With regard to the alleged accident, an FIR No. 247 dated 24.11.1997 under Sections 279, 337 and 304-A IPC was registered at Police Station Hodal. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

Learned counsel for the appellant has informed that the appeal filed by New India Assurance Co. in FAO No. 2699 of 1998 was dismissed on 14.05.2014 with respect to the same accident.

COMPENSATION ASSESSED BY THE MACT

There is no dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR No. 247 dated 24.11.1997 under Sections 279, 337 and 304-A IPC was registered at Police Station Hodal.

The injured was 25 years of age at the time of accident. The Tribunal has assessed the compensation as Rs.70,000/- under the heads of medical expenses, transportation, pain and suffering, loss of salary etc. along with interest @ 12% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. The claimant was 25 years of age and as per the disability certificate Ex.PX., he suffered 70% disability with 3

inches shortening of right leg. He got treatment from various hospital. Firstly, the claimant came to Escorts Medical Centre, Faridabad from where he was referred to Safdarjang Hospital, Delhi, where he remained admitted for about one month. Plaster cast was applied on his leg for 3 months and after discharge from the hospital, he remained under treatment of Safdarjang Hospital. During the period of six months, he kept on visiting Dr. at hospital. As per the award, he would have remained in the hospital for almost 5 months after the accident. He must have spent money on transportation, special diet etc. Hence, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.1500
(ii)	Compensation after multiplier of 18 applied	1500 X 12 X 18=324000
(iii)	70% disability	324000 X 70%=2,26,800
(iv)	Stay in hospital	10,000
(v)	Special diet and transport	10,000
(vi)	Pain and suffering	1,00,000
(vii)	Future amenities of life	1,00,000
(viii)	Medicine expenses	13,000
(ix)	TOTAL COMPENSATION AWARDED	Rs. 4,59,800/-
(x)	ENHANCED AMOUNT OF COMPENSATION	Rs.4,59,800-70,000= Rs.3,89,800/-

The enhanced amount of compensation of **Rs.3,89,800/-** shall be payable within a period of two months 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 the case of “*Shri Nagar Mal and others V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.*” Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

May 17, 2018
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No