

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

**FAO No.2566 of 2001 (O&M)
Date of decision: 21.02.2018**

Amrik Singh

....Appellant

Versus

Baba Jagtar Singh Chela Jiwan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Swaich, Advocate,
for the appellant.

Mr. V.K. Garg, 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, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 07.06.2001, on account of injuries received by him in a motor vehicular accident which took place on 28.09.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.09.1999, at about 12:00 noon, claimant-appellant was going towards his house on foot from his fields. When he reached near the shop of Gulzar Singh at village Balana, a TATA truck bearing registration No. PB-02-J-9953 being driven by Gulzar Singh-respondent No.2 in a rash and negligent manner came and struck against the claimant, who was going on the *kacha* portion of the road, as a

result of which, he (claimant) was entangled in the front wheel and was

dragged to some distance. He received injuries in the accident. Thereafter, he was taken to Civil Hospital, Ambala, from where, he was referred to PGI, Chandigarh. He remained admitted in the PGI for a long time. With regard to the accident, FIR No.185 dated 28.09.1999 was registered against the driver of offending vehicle i.e. respondent No.2. Consequently, the 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 taken place on account of rash and negligent driving of offending vehicle by its driver-respondent No.2 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Amrik Singh-claimant (PW-4) and Gulzar Singh (PW-4), who was eye witness of the accident. Further, the claimant has also proved on record FIR Ex.P3, which was registered against the driver of offending vehicle. As per deposition of Dr. P.K. Nigam (PW-2), claimant-appellant has become permanent disabled to the extent of 100%. Income of the claimant was assessed as Rs.1500/- by the Tribunal. At the time of accident, he was 29 years old, therefore, multiplier of 17 was applied. Compensation was assessed as Rs.3,06,000/- (1500 x 12 x 17). Apart from this, Rs.47,775/- were awarded for purchase of medicines. Hence, the claimant was found entitled to a total compensation of Rs.3,53,775/-, rounded off to Rs.3,54,000/- along with interest at the rate of 9% 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

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved.

Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle by its driver-respondent No.1. As per deposition of Dr. P.K. Nigam (PW-2), a board consisting of himself, Dr. S.L. Kaushik and Dr. R.K. Patnaik had examined the disability of claimant-appellant and found him disabled to the extent of 100%. His right leg had been amputated from thigh in the middle and his left fracture of spinal cord L-1. Disability certificate, in this regard, has been proved as Ex.P2. Learned counsel for respondent No.3-Insurance Company is not disputing the disability certificate.

A perusal of the impugned award shows that before the accident, claimant was doing agricultural work and he was also having buffaloes. He used to sell the milk. Father of the claimant is owner of 15 acres of land. Since, the claimant has suffered permanent disability by 100%, it would be just reasonable if, his income is assessed at Rs.3000/- per month. In this income, 40% is being added on account of future prospects, which comes to Rs.4200/- per month. After applying the multiplier of 17, compensation towards loss of future income on account of disability comes to Rs.8,56,800/- (Rs.4200 x 12 x 17). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Compensation for loss of future income due to disability of 100%	Rs.8,56,800/-
(ii)	Loss of income during period of treatment	Rs.6000/-
(iii)	Medical expenses	Rs.47,775/-

(iv)	Future medical expenses	Rs.2,00,000/-
(v)	Pain and sufferings, special diet, attendant	Rs.2,00,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.13,10,575/-
(vii)	Enhanced amount of compensation	Rs.13,10,575 – 3,54,000 = Rs.9,56,575/-

The enhanced amount of compensation of **Rs.9,56,575/-** 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 @ 9% 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 “***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others***”, 2015(1) SCC 539. 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.

(RITU BAHRI)
JUDGE

21.02.2018
ajp

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