

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Sr. No.437

FAO No.501 of 2001 (O&M)

DECIDED ON: October 25, 2018

DILAWAR SINGH

..APPELLANT

VERSUS

GIAN SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Ms. Priyanka Malik, Advocate for
Mr. B.B.S. Sobti, Advocate,
for the appellant.

Ms. Amarjeet Kaur Khurana, DAG, Punjab.

AJAY TEWARI, J. (ORAL)

This is an appeal for enhancement of compensation and for modifying the award dated 27.07.2000 passed by the Motor Accidents Claims Tribunal, Ludhiana granting compensation of Rs.1,75,000/- with future interest @ 12% per annum in favour of the appellant and against the respondents on account of injuries suffered by the appellant.

The brief facts of the case are that on 16.03.1998, Dilawar Singh accompanied by Shingara Singh, Sarpanch of village Ladhowal were proceeding on their cycles from Ludhiana to their village Ladhowal. At that time Dilawar Singh was proceeding slightly ahead of Shingara Singh

FAO No.501 of 2001 (O&M)

Sarpanch. When they reached near pacca G.T. Road turning which leads to village Jassian at about 03.30 P.M., one bus bearing registration No.PB-12-9720, driven by respondent No.1 came from back side on a very high speed in a very rash and negligent manner, hit to Dilawar Singh, as a result thereof, he fell down on the ground and suffered permanent disability to the extent of 50%.

It is interesting to note that the Tribunal has recorded that even at the time of arguments in the case the appellant was present and could not even properly stand. Against this backdrop, learned counsel for the appellant has argued that once it was shown that the appellant was a driver and once he testified that as a result of the injury he could not drive any more and once the Tribunal found that in fact he could not even stand properly, his functional disability should have been taken at 100% and not 50%.

Learned DAG is not able to counter this argument. In the circumstances, the functional disability is taken at 100%.

Counsel for the appellant has argued that in view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 25% has to be awarded on account of future prospects since the appellant was 45 years of age. Learned DAG is not in a position to deny this. I find this to be indeed so. Consequently, it is held that 25% has to be added towards future prospects.

Counsel for the appellant has further argued that the Tribunal erred in applying multiplier of 10, whereas as per judgment of the Supreme Court in the matter of *Sarla Verma and others v. Delhi Transport*

FAO No.501 of 2001 (O&M)

Corporation and another, 2009 ACJ 1298, it should be 14. Learned DAG is not in a position to deny this. This argument is also accepted.

Counsel for the appellant has further argued that nothing has been awarded on account of 50% disability. Consequently, it is held that appellant is entitled to Rs.1 lac @ Rs.2000/- per percent of disability.

Learned Deputy Advocate General, Punjab has argued that the rate of interest 12% is too excessive. However, I find that as per judgment passed in “***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***” in ***Civil Appeal No. 9581 of 2018*** decided on 18.9.2018, the Supreme Court has awarded interest @ 12% on the entire compensation. Consequently, I held the entire compensation shall be paid alongwith interest @ 12% from the date of filing of the claim petition till the date of payment/s.

Appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 25, 2018

Ankur

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No