

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3018 of 2003

Date of Decision: 17.05.2018

Raj Kumar

.....Appellant

Vs.

Kulwant Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Kulwant Singh Dhanora, Advocate, for the appellant.

Mr.R.S.Mamli, Advocate, for the respondent No.2.

Mr.Ajit Sihag, Advocate, for respondent No.3.

Mr.Neeraj Khanna, Advocate, and
Mr.Ravinder Arora, Advocate, for respondent No.5.

Mr.Assem Aggarwal, Advocate, for
Mr.Harsh Aggarwal, Advocate, for respondent No.6.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 10.02.2003, passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') vide which compensation to the tune of Rs.30000/- was awarded to him on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 05.08.1998, the claimant Raj Kumar alongwith Ram Saran deceased had purchased buffaloes from Fatehabad. They loaded the buffaloes in truck No.HR-39/4171 on payment of hire for carrying to Hapur (UP). Raj Kumar as well as Ram Saran were also travelling in the same truck HR-39/4171 being driven by respondent No.1 Kulwant Singh. The truck No.HR-39/4171 was driven by rashly and negligently by respondent No.1 despite the fact that he was advised to take care by Raj Kumar and

Ram Saran deceased but he did not pay any heed. At about 11:30

p.m./12:00 am in the night, the truak No.HR-39/4171 reached near BSF Centre, Hisar when another truck No.HR-38/1526 came from the opposite side. Both the trucks colluded with each other to rash and negligent driving of respondent No.1 where by the petitioner Raj Kumar and Ram Saran and buffaloes received injuries. Ram Saran and buffaloes succumbed to their injuries. Raj Kumar was taken to General Hospital, Hisar, where he received treatment. An FIR No.470 under Section 279/337/304-A, 427/429 IPC was registered in Police Station Sadar, Hisar against respondent No.1.

COMPENSATION ASSESSED BY MACT

A perusal of Award shows that the liability was fastened in the ration of 50: 50 on both the set of vehicles as the evidence brought on record accordingly shows that the accident has taken place due to contributory negligence of both the set of trucks i.e. HR-39/4171 and HR-38/1526. Raj Kumar has suffered disability to the extent of 10% on account of fracture of lower and of left forearm which can be reduced with passage of time with the help of physiotherapy. The claimant-Raj Kumar remained admitted in Civil Hospital, Hisar from 05.08.1998 to 10.08.1998 and he has been awarded Rs.30,000/- lump sum compensation of Rs.30,000/-. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Stay in hospital w.e.f. 05.08.1998 to 10.08.1998	Rs.10,000/-
2.	Special diet	Rs.10,000/-
3	Pain and suffering	Rs.10,000/-
	Total	Rs.30,000/--

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced.

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.

It is not in dispute that the offending vehicle was fully insured with

the Insurance company. Since, the disability is permanent in nature, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Pain and suffering	Rs.20,000/-
2.	Special diet	Rs.20,000/-
3	Stay in hospital w.e.f. 05.08.1998 to 10.08.1998 and transportation.	Rs.10,000/-
	Total compensation	Rs.50,000/-
	Enhanced amount of compensatin	Rs.50,000/- --- Rs.30,000/-= Rs.20,000/-

Resultantly, the enhanced amount of compensation of Rs.20,000/- 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

17.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No