

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4860-2009 (O&M)

Date of decision: 25.05.2018

Kamlesh and others

...Appellants

V/s.

Dharamvir Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mrs. Ritu S. Sharma, Advocate for the appellants.

Mr. Subhash Goyal, Advocate for the insurance co.

RITU BAHRI, J. (Oral).

CM-23804-CII-2009

Application for placing on record the copy of medical disability certificate as Annexure A/1 is allowed and the same is taken on record.

Application stands disposed of.

FAO-4860-2009

The claimants have come up in appeal against the award dated 17.01.2009 passed by Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.12,798/- on account of injuries suffered by Shyam Sunder (60% permanent disability in relation to lower limb) in a road accident that took place on 13.01.2006.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.01.2006, Shyam Sunder along with Dev Raj son of Banarasi and Pervindra Kumar son of Bal Kishan Shyam were coming from Barwala. When they reached the HMT colony near Police Chowki Barwala, a Motor-cycle bearing HR-03F-6059 being

driven by respondent No. 1 hit him from the back. The claimant was walking on the road side when this motor-cycle being driven rashly and negligently came from the back and hit the claimant in his right leg and as a result of which, his right leg was hanging down and got multiple fractures.

With regard to accident, a DDR No. 38 PJR dated 10.05.2006 was got registered.

Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in 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 a DDR No. 38 PJR dated 10.05.2006 was got registered and the documents Mark A19 to Mark 21.

The Tribunal has assessed the compensation as under:-

HEADS	CALCULATIONS
Medical expenses	11,298
Transportation	500
Surgery conducted	1,000
Total	12,798/-

Hence, the claimant No. 1 was found entitled to total compensation of Rs.12,798/- on account of injuries suffered by Shyam Sunder along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have 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.

Learned counsel for the claimants has placed on record disability certificate Annexure A/1 dated 15.11.2006 by way of application for additional evidence and after verification, it is not disputed by the respondents. As per the disability certificate, the claimant was disable to the extent of 60% permanent. He has also referred to a letter dated 20.12.2006 Annexure A/2, in which a request was made for help from the scheme 'Agony Koch' floated by State Govt. of Haryana. The claimant, while appearing as PW1 deposed that he sustained injuries on his right leg which was hanging down due to the multiple fracture in the leg and in the knee joint. He was taken to General Hospital, Sector 6, Panchkula from where he was immediately referred to PGI where he remained admitted from 13.01.2006 to 25.01.2006. He was operated and a steel rod with seven holes was inserted in his leg. The claimant had to visit PGI many times and for that purpose he used to hire a taxi. The claimant was also admitted in Saket Hospital where a knee plate was implanted in his right leg. Keeping in view the nature of injuries, his treatment, the compensation is required to be reassessed in view of the judgments in 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) and the minimum wages applicable in the State of Haryana in the year 2006 as under:-

HEADS	CALCULATIONS
Income	3500

10% future prospects	3500+350=3850
Compensation after multiplier of 11 applied	3850 X 12 X 11=508200
60% disability	508200 X 60%=304920
Medical expenses (Ex.P2 to P16), Mark A1 to A15	11,698
Transportation, stay in hospital and attendant	15,000
Special diet	10,000
Pain and suffering	10,000
TOTAL COMPENSATION AWARDED	Rs. 3,51,618/-
ENHANCED AMOUNT OF COMPENSATION	Rs.3,51,618-12,798= Rs.3,38,820/-

The enhanced amount of compensation of **Rs.3,38,820/-** 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.

May 25, 2018
Divyanshi

(RITU BAHRI)
JUDGE

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