

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1154 of 2010 (O&M)

Date of Decision: 30.05.2018

Parmod

.....Appellants

Vs.

Sukhwinder @ Sonu and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Pankaj Middha, Advocate, for the appellant.

Mr.Pawan Singh, Advocate, for respondents No.2A

Ms.Vandana Malhotra, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

CM No.10683-CII of 2018

Application is allowed, subject to all just exceptions.

Disability Certificate A-37 is taken on record.

Main Case

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 22.04.2009, passed by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') vide which compensation to the tune of Rs05,02,095/- was awarded to the claimant on account of injuries suffered by him in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 12.03.2008, Rajbir (father of the applicant) was working in the fields. Applicant/Parmod had received the message from his father to come to the fields along with a torch. At about 7:30 p.m., Parmod was going to

his field from his house alongwith a torch on his bicycle. When he reached near the fields, at that time a Car bearing No.DL-2CR-4000, which was being driven by its driver-respondent No.1 in a rash and negligent manner, came from the side of Village Ugalan (Hisar). The driver coming on the wrong side, had struck the car against the bicycle as a result of which applicant had suffered multiple and serious injuries on various parts of his body including forehead and head. After causing the accident, the driver had fled away along with his car towards the village. FIR (Ex.P-1) has been lodged with regard to this accident.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 19 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been reassessed by the learned Tribunal as under:

Sr.No.	Heads of compensation	Amount
1	Medical expenses	Rs.3,52,000/-
2.	Further Medical Expenses	75,000/-
3.	Pain and suffering	Rs.40,000/-
4.	Nutritious diet	Rs.13,095/-
5.	Transportation	Rs.10,000/-
	Total	Rs.5,02,095/-

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 has assessed as 100% permanent in nature which has been placed on record by way of application i.e. A-37, the compensation has not been reassessed in view of the same. As such, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.4,000/-
2	Future prospect (40%)	Rs.4,000/- + Rs.1600/-= Rs.5,600/-
3	Loss of earning as per Permanent disability(multiplier method)	Rs.5600/- X 12 X 18= Rs.12,09,600/-
4	Medical expenses	Rs.3,52,000/-
5	Further Medical Expenses	Rs.75,000/-
6	Pain and suffering	Rs.40,000/-
7	Nutritious diet	Rs.13,095/-
8.	Attendant Charges	Rs.12,000/-
9	Transportation	Rs.10,000/-
	Total	Rs.17,11,695/-
	Enhanced amount of compensation	Rs.17,11,695/- ---- Rs.Rs.5,02,095/-= Rs.12,09,600/-

Resultantly, the enhanced amount of compensation of Rs.12,09,600/- 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

30.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No