

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3303 of 2010

Date of Decision: 21.05.2018

Mandeep

.....Appellant

Vs.

Jogeshwar Pandey and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ravi Malik, Advocate, for the appellant.

Mr.R.C.Gupta, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellant(for short 'the appellant'), against award dated 26.11.2009, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') vide which compensation to the tune of Rs.10,00,000/- was awarded to the claimant on account of injury suffered by him in a motor vehicular accident.

On 13.08.2007, Mandeep started his journey on cycle from the compound of DM Senior Secondary School, Kharkhara, for going to his house at Village Kharkhara. He started about 2:00 p.m. And came out of the School. In the meantime, a Tralla Container No.HR37B-4188 driven by its driver rashly, negligently, and at a high speed came from Kharkhara side and struck against Mandeep, who was at a distance from Pacca road besides school's main gate, due to the impact, Mandeep, fell down and thrown at a distance. Surajmal and Head Master of the School reached at the post of occurrence. The driver of the offending vehicle fled away from there,

Mandeep sustained serious and grievous multiple injuries on his person and became unconscious and was taken to CHC Meham, from where he was referred to Pt.B.D.S.PGIMS, Rohtak and was admitted there and afterwards, he was taken to Maharaja Aggarsain. A case bearing FIR No.209 dated 14.08.2007 under Sections 279/337 of the IPC was registered at Police Station, Meham District Rohtak.

After the accident FIR Ex.P-34 was registered against respondent No.1 by PW-2 Surajmal appeared and deposed with regard to the registration of FIR and the ground in which the accident had taken place. No evidence led by the respondent to rebut the evidence of the claimant. The claimant/appellant has also examined PW-8 Dr.Vineet Bhai, Assistant professor, Department of Neurology, PGIMS, Rohtak. He has deposed that he was one of the member of the Medical Board constituted under the Chairmanship of Medical Superintendent, PGIMS, Rohtak. The patient was examined and the board assessed the disablement on the person of Mandeep son of Dalbir. He was 100% permanent disabled on account of head injury. He has also proved on record the disability certificate Ex.P66. So, from the evidence of PW2 Suraj Mal coupled with the medical evidence of PW5 Dr.Amitabh Gupta and PW8 Dr.Vineet Bhai that the claimant has suffered grievous injuries in the road side accident. Keeping in view the MLR Ex.P36, Discharge Summary Ex.P37, Mark A to D Discharge Certificates, Mark C to K OPD Cards, Mark L1 to L1213 Medical bills which were proved and by examining Mr.K.D.Sharma, Record Clerk, Maharaja Aggarsain Hospital, New Delhi. A lump sum compensation of Rs.10 lacs has been awarded keeping in view the ratio of laws laid down in Oriental

(DB), Arun Sondhi Vs. Delhi Transport Corporation I(2001) ACC, 615
Delhi High Court and K Neelakantha Versus Pathikottai Aghagiri Transport
Corporation Limited, III(2005) ACC, 164,\

In the present case, claimant/Mandeep was aged of 13 ½ years old and he was studying in 9th class in the year 2007 when the accident had taken place. A perusal of the Award shows that father of the claimant had taken a loan of Rs.1,70,000/- from one Jagbir and Rs.50,000/- from various other persons. Apart from this, the family had undergone lot of pain and suffering to look after the injured child. Apart from that claimant had engaged two attendants namely Rajesh son of Daya Nand and Sonu son of Balwan at the rate of Rs.2000/- per month each.

A reference can be made to the judgment of Hon'ble Supreme Court in the case of Master Mallikarjun Vs. Divisional Manager, The National Insurance Company Limited and another 2015(1) SCC(Civil) 335 and Judgment of this Court in the case of Parveen Vs. Vikram and others 2016 (2) RCR (Civil) 717 wherein, claimant was 20 years old and he was suffered 70% permanent disability which has to be taken 100% functional disability.

Keeping in view the above, the compensation is being assessed as under:

Sr.No.	Heads of compensation	Amount
1.	Medical expenses qua treatment, medicines, transportation, attendants	Rs.7,00,000/-
2.	Loss of amenities and expectation of life	Rs.3,00,000/-
3.	Pain and suffering	Rs.3,00,000/-
4.	Attendant charges (3000 X 12 X 35)	Rs.12,60,000/-

5.	Loss of future earning on account of permanent disability income Rs.3000/- P.M. + Rs.1500 future prospect X 12 X 18 (multiplier)	Rs.9,72,000/-
	Enhanced amount of compensation	Rs.35,32,000 --- Rs.10,00,000= Rs.25,32,000/-

Resultantly, the enhanced amount of compensation of Rs.25,32,000/--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 Limited and Others passed 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

21.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No