

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.5802 of 2010 (O&M)
Date of decision: 14.05.2018**

Charanjit Kumar

....Appellant

Versus

Gurbaksh Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. C.L. Verma, Advocate,
for the appellant.

Mr. Pradeep Goyal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 15.05.2010, on account of injuries received by him in a motor vehicular accident which took place on 14.09.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.09.2008, at about 4.30 A.M., claimant-appellant (Charanjit Kumar) and Budh Ram were sitting on rickshaw near Parkash Auto Center and were waiting for passengers. In the meantime, offending Tralla bearing registration No. PB-13-J-1718 being driven by Gurbaksh Singh-respondent No.1 in a rash and negligent manner, came from Atam Park Road and hit the rickshaw, as a result of which,

of the Tralla run over both the legs of Charanjit Kumar-claimant. Due to this, both the legs of claimant got fractured. Budh Ram also received multiple injuries and later on, died in Civil Hospital, Ludhiana. Rickshaw of the claimant was also got damaged. With regard to the accident, FIR No.244 dated 15.09.2008, under Sections 279/338/427/304-A IPC was registered against the driver of offending vehicle i.e. respondent No.1 at police station, Division No.5 on the statement of Ashok Kumar. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Charanjit Kumar-claimant (PW-1). Further, the claimant has also proved on record FIR Ex.P1. Ultimately, the claim petition was allowed and the compensation was assessed as under:-

Sr. No.	Heads	Amount
1	Medical/treatment expenses	Rs.1,05,000/-
2	Compensation on account of 86.6% disability suffered by claimant	Rs.2,00,000/-
3	Special diet	Rs.10,000/-
4	Pain and sufferings	Rs.5000/-
5	Amenity and expectation of life	Rs.20,000 + Rs.20,000 = Rs.40,000/-
6	Attendant and transportation charges	Rs.5,000 + Rs.5000 = Rs.10,000/-
	Total	Rs.3,70,000/-

The claimant was found entitled to a total compensation of **Rs.3,70,000/-**. Feeling dissatisfied with the impugned award, the claimant-

appellant has preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved.

Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle. As per deposition of Dr. Navendu Goyal, CMC Hospital, Ludhiana (PW-5), claimant-Charanjit Kumr was got admitted in their hospital on 14.09.2008 with history of road side accident and was discharged on 29.09.2008. Dr. Sudesh Kumar, Orthopaedic Surgeon, Civil Hospital, Ludhiana (PW-3) deposed that the claimant was examined by the Medical Board and found to have 86.6% permanent disability due to knee amputation of left lower leg. He had proved the disability certificate as Ex.P2, which proved that the claimant has suffered permanent disability to the extent of 86.6%. He was a rickshaw puller and after the accident, he cannot pull his rickshaw.

Reference, at this stage, can be made to a judgment passed by this Court in **Kapoor Chand vs. Rajbir and others**, FAO No.749 of 2011 and a connected appeal (FAO No.751 of 2011) decided on 22.01.2014. In that case, the appellant-Naresh Kumar was a driver and had suffered 12% disability on account of duodenal perforation with fracture left side of patella with terminal restriction of movement of left knee with non-union of left penala. It was held that for all times to come, claimant-Naresh Kumar could not do the job of a driver. Hence, the compensation was assessed after applying the multiplier method and giving him the benefit of future prospects. Further, in **Narinder vs. Ram Parkash and others**, FAO

No.6374 of 2012 (decided on 20.04.2018), claimant had suffered 25% permanent disability and he had become incapable to drive a vehicle. Even, in that case, the disability was taken to the extent of 100% and compensation was re-assessed by applying the multiplier method and giving benefit of future prospects.

In the facts of the present case also, as per disability certificate Ex.P2, claimant has suffered permanent disability to the extent of 86.6%. After the accident, claimant-appellant is unable to do the work of rickshaw pulling and earn his livelihood. Therefore, the disability of the claimant has to be taken to the extent of 100% and the compensation has to be assessed by applying the multiplier method. In the given circumstances, income of the claimant-appellant is being taken as Rs.3000/- per month. In this income, 40% addition is made on account of future prospects, which comes to Rs.4200/- (3000 + 1200). After applying the multiplier of 17, compensation on account of disability comes to Rs.8,56,800/- (Rs.4200 x 12 x 17). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Medical/treatment expenses	Rs.1,05,000/-
(ii)	Compensation on account of special diet	Rs.20,000/-
(iii)	Loss of income on account of permanent disability	Rs.8,56,800/-
(iv)	Pain & sufferings	Rs.15,000/-
(v)	Loss of amenities and expectation of life	Rs.1,00,000/-
(vi)	Attendant and transportation charges	Rs.20,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.11,16,800/-
(viii)	Enhanced amount of compensation	Rs.11,16,800 – 3,70,000 = Rs.7,46,800/-

The enhanced amount of compensation of **Rs.7,46,800/-** 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 vs. The Oriental Insurance Company Ltd. and others**", Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018". Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

14.05.2018

ajp

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