

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6148-2010

Date of decision: 11.05.2018

Sagar minor son of Sh. Rajesh Kumar

...Appellant

V/s.

Nitin Mehta and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ramesh Kumar, Advocate for the appellant.

Mr. Vipul Aggarwal, Advocate for
Mr. Ravinder Arora, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

The claimant-minor through his father has come up in appeal against the award dated 29.05.2010 passed by Motor Accident Claims Tribunal (for short 'the Tribunal') whereby he has been awarded a compensation of Rs.5,19,300/- on account of injuries suffered by him in a road accident which took place on 23.09.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.09.2008, Sagar was standing on kuchha portion of Atawala-Dimana Road near Rajbaha of village Atawala, whereas his father Rajesh Kumar was in the field at a distance of 10-12 feet, one car bearing No. HR-40A-6505 driven by respondent No. 1 rashly and negligently hit him, as a result of which he fell down and received multiple grievous injuries on head and other parts of the body. The accident took place due to sole negligence of driver of the car.

With regard to the alleged accident, his father Rajesh Kumar (an eye witness of the said accident) registered an FIR No. 264 dated 26.09.2008 (Ex.P160) at Police Station Madlauda against respondent No. 1-Nitin Mehta. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 which has been rightly given that respondent No. 1 was negligent in driving and caused the above said accident. An FIR No. 264 dated 26.09.2008 (Ex.P160) was registered against the driver and challan (Ex.P157) was presented against him and as per the mechanical report (Ex.P159) the vehicle was involved in the accident.

The deceased was 05 years of age at the time of accident. The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Pain and suffering, special diet, transportation and attendant expenses	Rs.50,000
(ii)	Medical bills (Ex. P1 to P156)	4,69,300/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 5,19,300/-

Hence, the claimant was found entitled to total compensation of Rs.5,19,300/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. 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. It stands established that the claimant has received injuries on account of road accident. Finding of

negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77 and *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Pain and suffering	50,000
(ii)	Medical bills (Ex. P1 to P156)	4,69,300
(iii)	Stay in hospital for 03 months	50,000
(iv)	Special diet, attendant and transportation charges	50,000
(vi)	TOTAL COMPENSATION AWARDED	Rs.6,19,300/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.6,19,300-5,19,300 = Rs.1,00,000/-

The enhanced amount of compensation of **Rs.1,00,000/-** 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.

(RITU BAHRI)

JUDGE

May 11, 2018

Divyanshi

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No