

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2669-2012 (O&M)

Date of decision: 25.05.2018

Nanhe Lal Maurya

...Appellant

V/s.

Ankur Mittal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Anil Kumar Spehia, Advocate for the appellant.

Mr. Subhash Goyal, Advocate for the insurance co.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 15.10.2010 passed by Motor Accident Claims Tribunal, Faridabad (for short 'the Tribunal') whereby he has been awarded a compensation of Rs.1,39,259/- on account of injuries suffered by him in a road accident that took place on 17.12.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.12.2008, Nanhe Lal was going to factory from his house and when he reached near Jyoti Nursing Home dividing road Sector 15/16 Faridabad, then a car bearing No. DL-6C/3729 came from side of Sector 15 Faridabad driven by respondent No. 1 in a rash and negligent manner and without blowing horn hit him from back side as a result of which he fell down with his cycle on the road and sustained injuries on various parts of his body.

With regard to accident, an FIR No. 833 dated 20.12.2008 (Ex.P29) under Sections 279, 337 and 338 IPC was registered at Police Station Central Faridabad against the respondent No. 1.

Consequently, the claimant-appellant 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 an FIR No. 833 dated 20.12.2008 (Ex.P29) under Sections 279, 337 and 338 IPC was registered at Police Station Central Faridabad against the respondent No. 1.

The Tribunal has assessed the compensation as under:-

HEADS	CALCULATIONS
Medical expenses (Ex. P2 to Ex.P28)	9,259
Pain and suffering and loss of future income	1,00,000
Loss of income	20,000
Attendant, special diet and transportation	10,000
Total	1,39,259/-

Hence, the claimant was found entitled to total compensation of Rs.1,39,259/- on account of injuries suffered by him along with interest @ 6% 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

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.

The grievance of the claimant is that the disability certificate (Mark 30) has been totally ignored by the Tribunal simply on the ground that no Doctor has appeared to prove the disability certificate. A perusal of

the disability certificate shows that it has been issued by Board of Doctors of Safdarjang Hospital, New Delhi, which is a Government Hospital and the disability certificate is not disputed by the insurance company. Hence, the disability certificate is now taken into consideration and 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 2008 as under:-

HEADS	CALCULATIONS
Income	3,500
40% future prospects	3500+1400=4900
Compensation after multiplier of 15 applied	4900 X 12 X 15=8,82,000
75% disability	882000 X 75%=6,61,500
Loss of income	20,000
Transportation, stay in hospital and attendant	1,00,000
Special diet	15,000
Pain and suffering	50,000
TOTAL COMPENSATION AWARDED	Rs. 8,46,500/-
ENHANCED AMOUNT OF COMPENSATION	Rs.8,46,500-1,39,259= Rs.7,07,241/-

The enhanced amount of compensation of **Rs.7,07,241/-** 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.

Since the main appeal is allowed, pending application, (if any), also stands allowed.

May 25, 2018
Divyanshi

(RITU BAHRI)
JUDGE

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