

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5150-2012 (O&M)

Date of decision: 09.05.2018

Parveen Kumar

...Appellant

V/s.

Gursidak Singh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None for the appellant.

Mr. S.S. Sidhu, Advocate for respondent No.2.

RITU BAHRI, J. (Oral).

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 16.03.2012 on account of 100% disability in a motor vehicular accident which took place on 22.06.2010.

There is no dispute with regard to finding on issue No. 1. With regard to accident, an FIR No. 128 dated 24.06.2010 under Section 279, 337 and 338 IPC at Police Station Mullana was registered against respondent No. 1. (Ex.P1) and thereafter he was chargesheeted (Ex.P3). Further, the claimant has proved the report of mechanic (Ex.P5) and the MLR (Ex.P7).

The compensation has been assessed taking the disability as 100% as proved by Dr. Amit Aggarwal, MM Institute of Medical Science and Research, Mullana, appeared as PW-12 who stated that on account of head injury and paraplegia with bed sore, he remained admitted in hospital.

Then Dr. Depender Sindhu, Medical Officer, Civil Hospital, Yamuna Nagar, appeared as PW-3 and assessed 100% permanent disability as per disability certificate Ex. P-6.

COMPENSATION ASSESSED BY THE MACT

The injured was more than 18 years of age at the time of accident i.e. on 22.06.2010 and was unmarried. The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.3000/- per month
(ii)	Compensation after multiplier of 18 applied	3000 X 12 X 18=6,48,000/-
(iii)	Compensation for pain and suffering	Rs.20,000/-
(iv)	Attendant, transportation, special diet etc.	Rs.20,000/-
(v)	Loss of income on permanent disability of 100%	6,48,000/-
(vi)	Treatment and medicines	Rs.5,27,722/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 12,15,722/-

Hence, the claimant was found entitled to total compensation of Rs.12,15,722/- 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

The fact of accident is admitted and proved. It stands established that the disability has been assessed as 100% permanent. 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 minimum wages in the State of Haryana in the year 2010 as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5000/- per month

(ii)	Compensation after multiplier of 18 applied	5000 X 12 X 18=10,80,000/-
(iii)	For pain and suffering	Rs.3,00,000
(iv)	Loss of amenities in life	Rs.3,00,000
(v)	Attendant, hospitalization, transportation and special diet	50000
(vi)	Medical expenses	5,27,722/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 22,57,722/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.22,57,722-12,15,722 = Rs.10,42,000/-

The enhanced amount of compensation of **Rs.10,42,000/-** 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.

Since the appeal is allowed, the pending application, if any, stands disposed of.

(RITU BAHRI)
JUDGE

May 09, 2018
Divyanshi

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