

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5925 of 2012
Date of Decision:27.03.2018

Kulwinder Singh

.....Appellant

Vs.

Dharambir Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Deepak Kundra, Advocate, for the appellant.

Mr.Nonish Kumar, Advocate, for respondent No.1.

Mr.PHS Pannu, Advocate, for respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 10.03.2012, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,15,000/- was awarded to the claimant on account of injuries suffered by him in a motor vehicular accident.

On 31.12.2008, the claimant injured along with his father was coming from village Raseen, District Kaithal, to Karnal on bus bearing registration No.HR-45-B-0001, which was being driven by its driver, respondent No.1 in a rash, negligent and zig zag manner. The claimant, his father and other passengers of the bus requested him for driving the same in a slow and moderate speed and on his left hand side of the road but he did not pay any heed to their request. When the said bus reached near village Shahpur, in the meantime, a truck came there and the bus driver struck against the said truck, as a result of which, the claimant and other passengers received multiple and grievous injuries on various part of bodies. Thereafter, the claimant was taken to Civil Hospital, Karnal from where he was taken to Girdhar Hospital, Karnal and then to Sir Ganga Ram Hospital and then to Escort Hospital, Delhi. The matter was reported to the police of

Police station Sadar Karnal, who lodged the case bearing FIR No.242 dated 11.04.2009 under Sections 279, 337, 338 of IPC.

The Tribunal held that as per Bill Ex.P-5 amounting to Rs.1,36,653/- has been incurred by the claimant as he was admitted 01.01.2009 to 08.01.2009 at Sir Ganga Ram Hospital, New Delhi and as per statement of PW-3 S.C.Gupta, Manager Medical Records, Escort, Heard Institute and Research Centre, Delhi, Rs.35,928/- vide bill, Ex.P6 and the bill-cum-receipts were Ex.P7 to Ex.P Ex.P14. The disability was assessed 20% with respect to the limb. As per statement of PW-4, Dr.Vinod that this disability was only towards a particular limb and in terms of whole body, it should be 14% of the total. After granting Rs.28,000/- on account of loss of future income and Rs.14,500/- for non pecuniary damage, the claimant was held entitled to get a sum of Rs.2,15,000/-

Feeling dissatisfied with the impugned award, the claimants/appellant have preferred the present appeal.

The compensation requires to be reassessed as per disability certificate Ex.PW-4/A and it was stated that there will be problem while working with right upper limb as the joint was damaged. The claimant had sustained injuries as mentioned in the MLR, copy of which was Ex.P-1 and thus, keeping in view this unrebutted evidence, it is proved that claimant suffered fracture and was operated upon, as such he incurred a lot on his treatment besides remaining under pain and shock and without income for a long time and thus entitled for the same along with non-pecuniary compensation. His income is taken Rs.4000/- per month as per minimum wages at the time when the accident has taken place and loss of future income is assessed in view of the judgment of the Hon'ble Supreme Court in the case of **Raj Kumar Vs. Ajay Kumar 2011 (1) SCC 343**. The compensation is reassessed as under:

Sr.No.	Heads of compensation	Amount
1.	Income as per minimum wages in 2008	Rs.4,000/- X 12 = 48,000/- rounded off Rs.50,000/- per annum
2.	Loss of future income	Rs.5,0000/- X 14% X 18 =Rs.1,26,000/-
4.	Medical bills	Rs.1,72,580/-
5.	Conventional heads	Rs.50,000/-

	Total	Rs.3,48,580/-
	Enhanced amount of compensation	Rs.3,48,580/- ---- Rs.2,15,000/- =Rs.1,33,580/-

Resultantly, the enhanced amount of compensation of Rs.1,33,580/- 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 Ltd. And ors. 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

27.03.2018
anil

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