

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

* * * * *

FAO No. 2025 of 2013 (O&M)

Date of decision : January 12, 2018

* * * * *

Banwari Lal

.....Appellant

Versus

Satish Kumar and others

.....Respondents

* * * * *

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

* * * * *

Present: Mr. Dinesh Saini, Advocate
for Mr. Pritam Saini, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for the respondents.

* * * * *

RITU BAHRI, J.

C.M No.9789-CII of 2013

Prayer made in the application is for condonation of 183 days
delay in filing the appeal.

For the reasons mentioned in the application, prayer made in
the application is allowed. Delay of 183 days in filing the appeal is hereby
condoned.

FAO No. 2025 of 2013

The appellant-claimant has come up in appeal against the award
dated 11.5.2012 passed by the Motor Accident Claims Tribunal, Ambala,
(hereinafter referred to as 'the Tribunal'), whereby a compensation of

Rs.89,000 has been awarded to the claimant on account of injuries suffered by him in the accident. Through this appeal, the appellant-claimant has prayed for enhancement of the amount of compensation awarded by the Tribunal.

Briefly stated, the facts of the case are, that on 15.10.2010 at about 4:00 a.m, Banwari Lal along with one Gulzar Singh, his co-employee was standing on the the kacha berm of Shahbad-Ambala road in the area of Police Station Parao, Ambala Cantt. They were performing their duty of labour. In the mean time, a Road Roller driven by respondent no.1 in a rash and negligent manner came there and hit the appellant-claimant. Due to this impact, both feet of the petitioner were crushed. Gulzar Singh and other employees took the appellant-claimant to Sarwal Hospital, Amabala Cantt. and got him admitted there. After giving first aid, the appellant-claimant was referred to the GMCH, Sector-32, Chandigarh. In this background, an FIR No.355 of 2010 was registered under Sections 279/337 IPC at Police Station Parao. The appellant-claimant was stated to be aged 40 years at the time of the accident. He filed claim petition under Section 166 of the Motor Vehicles Act, 1988 to claim compensation on account of the injuries suffered by him in the accident.

After hearing counsel for the parties and examining the evidence placed on the record, the Tribunal held that the accident in question causing injuries to the appellant-claimant Banwari Lal took place due to rash and negligent driving of Road roller in question by respondent no.1. Being a casual labourer, his monthly income was taken as Rs.4200/- per month. The income of the appellant-claimant, therefore, came to be Rs.50,400/- per annum. In the facts and circumstances of the case,

disability of the petitioner qua his whole body was determined as 10% by the Tribunal. Therefore 10% of the said amount was calculated as Rs.5400/- by the Tribunal. In view of the parameters laid down in Sarla Verma Vs. Delhi Transport Corporation, 2009 ACJ 1298 and considering his age, multiplier of 14 was applied. Thus, the compensation for damages on account of permanent disability came to Rs.75,600/-. Tribunal held him entitled to the following compensation:-

Sr. No.	Heads	Amount
	<u>Pecuniary damages (Special damages)</u>	
	(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and misc. expenses	Rs. 5734/-
	(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:	
	(a) Loss of earning during the period of treatment:	Rs.2100/-
	(b) Loss of future earning on account of injuries.	Rs. 75,600/-
	(iii) Future medical expenses.	Nil
	<u>Non-pecuniary damages (General damages)</u>	
	(iv) Damage for pain, suffering and trauma as a consequence of the injuries.	Rs.5000/-
	(v) Loss of amenities (and/or loss of prospects of marriage).	Nil
	(vi) Loss of expectation of life (shortening of normal longevity).	Nil
	Total compensation	Rs. 88,434/- rounded off to Rs.89,000/-

An amount of Rs.2100/- awarded on account of loss of earning during the period of treatment and an amount of Rs.75,600/- on account of loss of future earning awarded on account of injuries has been rightly awarded and does not require any interference. However, compensation on

account of treatment and hospitalization is enhanced and an amount of Rs.15000 in stead of an amount of 5734/- and compensation on account of pain and suffering is enhanced to Rs. 10,000/- instead of Rs.5000/-, thus making the total compensation payable 1,02,700 (rounded off as 1,03,000).

The enhanced amount of compensation of **Rs. 14,000/-** 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 @ 9% 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 *Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539*. 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.

January 12, 2018
ritu

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No