

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**F.A.O No.1865 of 2015
Date of decision:- 20.04.2018**

Gajraj Singh

...Appellant

Versus

Parhlad Singh and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gurinder Pal Singh, Advocate,
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 28.02.2014, on account of injuries sustained by the claimant-Gajraj in a motor vehicular accident which took place on 25.09.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 25.09.2011, claimant-Gajraj coming to attend the Jagran at Railway Station Kosli on his motorcycle bearing registration No.HR-43-4789 and when he reached opposite Civil Court, Rewari, the offending bus bearing registration No.DL-1-PC-0997 came from the Kosli side in a rash and negligent manner and at a high speed and struck against motorcycle of the petitioner after coming on the wrong side. In this accident, petitioner had sustained serious and multiple injuries.

In this regard, FIR No.208 dated 26.09.2011 was lodged under Sections 279/337/427 IPC.

Consequently, claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by respondent No.1. Appellant/claimant suffered fracture and admitted in Hospital for few days. On the basis of documents placed on record i.e. copy of report under Section 173 Cr. P .C.Ex.PW/B, copy of charge sheet Ex PW/A, copy of MLR discharge summary Ex. PW2/1 and medical bills Ex. PW3/3 to PW3/10 etc., Tribunal awarded compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation on account of expenses of getting medical treatment which includes hospitalization charges, expenses in purchasing medicines & etc..	Rs.40,832/-
(ii)	Compensation towards pain and suffering, special diet, attendant, transportation, loss of income etc.	Rs.15,000/-
(iii)	Compensation towards disability to the extent of 38%	Rs.76,000/-
	Total Compensation	Rs.1,31,832/-

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

Learned counsel for the appellant argued that compensation awarded by the Tribunal is on lower side and the appellant has also not been awarded any amount under the head of loss of income during stay in the

hospital for few days.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. A perusal of the Award shows that Claimant has suffered permanent disability to the extent of 38% and he was medico-legally examined and remained admitted in hospital from 25.09.2011 to 30.09.2011 which was proved vide Ex. PW2/1 i.e discharge summary certificate. In order to prove the disability, claimant has examined PW1 Dr. A. K. Saini, MO GH, Rewari, who deposed that the appellant was examined by medical board and 38% disability was found on account of restricted movement of right ankle, left ankle, left foot with partial loss of stability with diminished vision.

Reference at this stage can be made to judgment of Hon'ble the Supreme Court of India in a case of ***V. Mekala vs. M. Malathi and anr, 2014(11) SCC 178*** wherein in a motor accident, the victim was a student and bones of her both legs fractured. Hon'ble the Supreme Court assessed her notional monthly income at Rs.10,000/- and awarded her 50% future prospects. She was awarded Rs.3 lacs under the head Loss of enjoyment of life and marriage prospects. She was awarded Rs. 2 lacs under the head pain and suffering and Rs. 2 lacs under the head loss of amenity and attendant charges.

Reference has further been made to a judgment of this Court in a case of ***Priyanka Bhutani vs. Sukh Pal Singh and others, 2011(2) RCR Civil 586*** wherein a girl child suffered brain injuries on her head. The

Tribunal awarded Rs.6,32,000 but this Court enhanced the compensation

amount to Rs.44,65,000/-. Her income had been assessed at Rs.10000 per month and she was awarded Rs.21,60,000/- under the head loss of earning capacity. She was awarded Rs.5,00,000/- towards loss of amenities. Rs.1 lac was awarded towards loss of prospect of marriage and Rs.1 lac was awarded towards pain and suffering.

Reference has been made judgment of Hon'ble the Supreme Court of India in a case of ***Dinesh Singh vs. Bajaj Allianz General Insurance Co. Ltd, 2014 (3) RCR Civil 123*** wherein Hon'ble the Supreme Court was dealing with a case of 24 year old victim, who met a motor accident. His one leg amputated. He suffered 60% permanent disability. He was awarded Rs.1,20,000/- towards pain and agony, Rs.3,10,000/- towards medical expenditure. Rs.3,08,160 towards loss of income, Rs.15,72,000/- towards loss of future income, Rs.3,50,000/- towards loss of happiness and loss of amenities, Rs.1 lacs towards loss of marriage prospects, Rs.5,50,000/- towards future medical expenses.

Keeping in view the facts and circumstances of the case, claimant is being 55 years of age and suffered injuries to the extent of 38%, this Court hereby take the disability to 40%. The appellant was running travel agency

Reliance can be placed upon the decision of the Supreme Court in case ***Sandeep Khanuja versus Atul Dande and Anr., 2017(1) RCR (Civil) 1017*** wherein a Chartered Accountant suffered 70% permanent disability of legs in motor accident. He was awarded compensation of 19,93,227/- by applying the multiplier method, as the appellant was to move about and

appear before the Assessing Authorities. In case a Chartered Accountant is

primarily doing audit work, he is not only required to visit his clients but various authorities as well.

REASSESSED COMPENSATION

In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed, in view of *Sandeep Khanuja case (supra)*, as in the present case, the appellant was running the travel agency and for doing this work, he has to move around for doing his work. Hence, this court reassessed compensation amount by applying the multiplier method, which reads as under:-

<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
Salary (Income)	Rs.5,000/- per month
Annual Salary	Rs.5000X12=60,000/-
Future Prospect 15%	Rs.60000 + Rs.9000 = Rs.69,000/-
Loss on account of 40% disability	Rs.27,600/-
Multiplier of 11 (age 55 years)	27,600 X11=3,03,600/-
Medical Expenses	Rs.40,832/-
Pain and suffering	Rs.1,00,000/-
Special Diet	Rs.15,000/-
Transportation and attendant Charges	Rs.15,000
Loss of income for three months	4,500X3=Rs.13,500/-
Total compensation awarded:-	Rs.4,87,932/-
Enhanced amount of compensation	4,87,932-1,31,832=Rs.3,56,100/-

The enhanced amount of compensation of Rs.3,56,100/- 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, in view of the judgment of Hon'ble the Supreme Court in a case of

Shri Nagar Mal and ors vs. The Oriental Insurance Co. Ltd and others, passed in Civil Appeal No. 448-2018., decided on 19.01.2018. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

20.04.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>