

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

**FAO No.4087 of 2014 (O&M)
Date of decision: 26.03.2018**

Sh. Anil Sharma

....Appellant

Versus

Sh. Mangat Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellant.

Mr. Deepak Suri, Advocate,
for respondent No.2- National Insurance Company Ltd.

Mr. A.S. Sidhu, Advocate,
for respondent No.4-ICICI Lombard General Insurance
Company Ltd.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 14.11.2013 (passed in MACP No.429/13), on account of injuries received by him in a motor vehicular accident which took place on 20.06.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.06.2010, at about 06.20 P.M., Manoj Kumar Sharma (since deceased) along with his family and relatives namely, Smt. Manju, Ms. Yashika, Master Kartavya, Smt. Seema, Master Hrithik Sharma, Ms. Shreya Sharma @ Saria Sharma, Sh. Anil

Kumar, Master Amit Kumar and Smt. Priyanka were going on the road leading from Moonak to Sunam in a car bearing registration No. HR-03-J-9145. When they reached near Government High School, Hamirgarh, a car bearing temporary registration No. HR-99-FS-1396 being driven by Babaljit Singh @ Babli in a rash and negligent manner, came from the opposite side and struck against the car No. HR-03-J-9145, as a result of which, all the occupants of the car received multiple and grievous injuries. They were shifted to the hospital. However, Smt. Manju, Mster Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma succumbed to the injuries at the spot. With regard to the incident, FIR No.95 dated 20.06.2010, under Sections 279/337/338/304-A IPC was registered against driver of the offending vehicle at Police Station, Monak, District Sangrur. Consequently, the claimant-appellants 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 taken place on account of rash and negligent driving of offending vehicle by Babaljit Singh @ Babli, as a result of which Manoj Kumar Sharma, Smt. Manju, Master Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma died and Master Kartavya, Yashika, Priyanka, Seema, Anil Sharma and Master Amit Kumar received injuries. Thus, finding on issue no.1 was returned in favour of the claimants. This finding was rightly given on the basis of the deposition of Shimla Rani (PW-1), Seema (PW-2), Sh. Ram Kumar (PW-3), Priyanka (PW-4) and Anil Sharma (PW-5). Further, the claimants have proved on record documents Ex.P1 to Ex.P93. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Compensation on account of loss of income during treatment.	Rs.27,000/-
2.	Compensation on account of loss of future income due to disability	Rs.1,00,000/-
3.	Pain & sufferings, loss of amenities of life during treatment, special diet, medicines and transportation etc.	Rs.5,000/-
	Total	Rs.1,32,000/-

Accordingly, claimant was awarded compensation of Rs.1,32,000/- along with interest at the rate of 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

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved.

Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle. As per deposition of claimant, after the accident, he was taken to Rajindera Hospital, Patiala, where he remained admitted for one day. Thereafter, he was shifted to PGI, Chandigarh, where he remained admitted till 26.07.2010 and an iron plates were inserted in his left leg and right arm. After that he was again taken to Rajindera Hospital, Patiala, on 28.08.2010 for another operation and was discharged on 15.09.2010. He was again admitted in Chawla Nursing Home and Hospital, Mohali on 08.03.2011. Another operation was conducted and plate, which was inserted in his right arm, was removed. The claimant (appellant) was working as a Store Supervisor with Amber

Enterprises, Rajpura and was getting a salary of Rs.9100/- per month. On account of this accident, he remained out of job for three months. Dr. Pardeep Arora (PW-9) deposed that claimant-appellant has suffered permanent disability to the extent of 52% on account of left knee joint, right hop joint and shortening of legs lower limb by one inch as per the disability certificate Ex.P26.

Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in **Syed Sadiq etc. vs. Divisonal Manager, United India Insurance Co. Ltd.**, 2014 (1) RCR (Civil) 765, where the victim of accident was aged about 24 years and was a vegetable vendor. It was held that a vegetable vendor is reasonable capable of earning Rs.6500/- per month with 50% increment on account of future prospects. In that case, multiplier of 18 was applied for calculating the amount of compensation. Keeping in view the peculiar circumstances of the present case, compensation is hereby re-assessed in view of the judgment passed in **Sayed Sadiq's** case (supra) as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Income	Rs.9100/- per month i.e. Rs.1,09,200/- per annum
(ii)	Future prospects 40%	Rs.1,09,200 + 43,680 = Rs.1,52,880/-
(iii)	Loss on account of permanent disability (52%)	Rs.1,52,880 x 52% = Rs.79,497/-
(iv)	Compensation after multiplier of 17 is applied	Rs.79,497 x 17 = Rs.13,51,449/-
(v)	Special diet, transportation charges, attendant charges, loss of amenities etc.	Rs.25,000/-
(vi)	Pain and sufferings	Rs.10,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.13,86,449/-
(viii)	Enhanced amount of compensation	Rs.13,86,449 – 1,32,000 = Rs.12,54,449/-

The enhanced amount of compensation of **Rs.12,54,449/-** 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 vs. The Oriental Insurance Company Ltd. and others**, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018. 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.

(RITU BAHRI)
JUDGE

26.03.2018
ajp

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