

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

FAO No.4949 of 2013 (O&M)

Geeta Devi and others

...Appellants

Versus

Darshan Singh and others

...Respondents

2.

FAO No.4950 of 2013 (O&M)

Kaptan Nath

...Appellant

Versus

Darshan Singh and others

...Respondents

and

3.

FAO No.4965 of 2013 (O&M)

Satpal Nath

...Appellant

Versus

Darshan Singh and others

...Respondents

Date of Decision: February 19, 2018

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Amit Singla, Advocate for the
claimants - appellants.

Mr.Kulwant Singh, Advocate for
respondents No.1 and 2 (driver and owner)

Mr.Vishal Goyal, Advocate for
respondent No.3 – Insurer.

HARINDER SINGH SIDHU, J.

4950 and 4965 of 2013, as all these appeals have arisen out of the common award dated 12.3.2012 passed by Motor Accident Claims Tribunal, Fatehabad (for short 'the Tribunal').

Case of the claimants was that on 24.9.2009, Kaptan Nath along with his brother-in-law (Jija) Bajrang Nath and Satpal Nath (brother of Bajrang Nath) was going to Fatehabad from village Moriwala on motorcycle No.HR-35C-8905, which was being driven by Satpal Nath at a moderate speed and on the correct side of the road. When they reached near the canal bridge in the area of village Akanwali, the truck No.PB-29E-9627, being driven by Darshan – respondent No.1 in a rash and negligent manner at a fast speed, came from the opposite direction and struck against the motorcycle over the bridge. Resultantly, all the three occupants of the motorcycle suffered injuries. Bajrang Nath succumbed to the injuries at the spot, while Kaptan Nath and Satpal Nath were shifted to General Hospital, Fatehabad.

FIR No.366 dated 24.9.2009 under Sections 304A, 279 and 337 IPC was registered in Police Station Sadar Fatehabad.

Three separate claim petitions seeking compensation; one for the death of Bajrang Nath – deceased and two for the injuries suffered by Kaptan Nath and Satpal Nath, were filed before the Tribunal. The Tribunal on appreciation of the evidence led before it, awarded the following compensation:

For the injuries suffered by Kaptan Nath (Claim Petition No.51-MACT of 2010/2011)	Rs.37,616/-
For the death of Bajrang Nath (Claim Petition No.52-MACT of 2010/2011)	Rs.7,84,400/-

For the injuries suffered by Satpal Nath (Claim Petition No.53-MACT of 2010/2011)	Rs.70,524/-
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Feeling dissatisfied over the amount of compensation, the present appeals are filed for enhancement of compensation.

The accident, injuries as also the liability to pay the compensation are not in dispute.

FAO No.4949-2013 (For the death of Bajrang Nath)

It is argued on behalf of the appellants that the deceased at the time of the accident was aged about 30 years, but the Tribunal has not awarded any amount towards 'future prospects' which should have been 40%. Under the other heads also, the Tribunal has awarded inadequate amount.

Accordingly, in the light of the decision of the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others** (2017) 16 SCC 680 the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Monthly Income	4500/-
(ii)	40% of above (i) to be added as future prospects (deceased aged 30 yrs.)	4500+(4500x40/100)= 6300/-
(iii)	Loss of income (1/5 th of (ii) deducted as personal expenses of the deceased – 8 dependants)	6300-(6300x1/5)= 5040/- per month
(iv)	Compensation after multiplier of 17 is applied	5040x12x17= 10,28,160/-
(v)	Loss of Consortium	Rs.40,000/-
(vi)	Loss of Estate	Rs.15,000/-
(vii)	Funeral Expenses	Rs.15,000/-
	Total	Rs.10,98,160/-

Accordingly, the claimants are entitled to a enhancement of compensation of Rs.3,13,760/- (1098160-784400).

FAO No.4950-2013 (*For the injuries to Kaptan Nath*)

The FIR in the case was registered on 24.9.2009 on the statement of Kaptan Nath, the injured claimant, aged about 21 years.

It is argued that he suffered simple and grievous injuries on his left knee, left leg and other parts of the body. After the accident on 24.9.2009, he was taken to General Hospital, Fatehabad and then to DMC Hospital, Sirsa with fracture patella left side and POP caste was applied. He remained admitted in DMC Hospital, Sirsa from 26.9.2009 to 30.9.2009. The medical bills of Rs.9116/- were also proved on record. Besides disability certificate (Ex.P1) issued by the Board of Doctors headed by the Civil Surgeon, which stated that Kaptan Nath has suffered disability to the extent of 2% was also proved on record. It is argued that despite such injuries, the Tribunal has not awarded any amount under the heads of 'transportation', 'attendant charges', 'diet and nutrition' and 'loss of prospects of marriage'. It is also argued that the amounts of Rs.20,000/- and Rs.4500/- awarded for 'pain and suffering' and 'loss of income' are also on the lower side considering the fact that Kaptan Nath had suffered fracture patella left side and POP caste was applied and he remained admitted for a week in two different hospitals.

Having considered the submissions, the injuries, the treatment and also the disability suffered by Kaptan Nath, it will be appropriate to award Rs.30,000/- in addition to the amount of Rs.37,616/- already awarded by the Tribunal. Ordered accordingly.

FAO No.4965-2013 (*For the injuries to Satpal Nath*):

Satpal Nath, aged about 30 years, suffered fracture both bone left leg and has been awarded compensation of Rs.70,524/- by the Tribunal.

On 24.9.2009, after the accident, Satpal Nath was medico legally examined at General Hospital, Fatehabad. Later, he was admitted to DMC Hospital, Sirsa, where he remained admitted till 30.9.2009. Dr.Raj Kumar (PW6) proved the treatment chart as Ex.P51 and other bills of medicines of Rs.26,024/-. Ex.P2, the disability certificate issued by the Board of Doctors headed by the Civil Surgeon stated that he has been rendered disabled to the extent of 10%. This certificate was proved by Dr.Pawan Kumar (PW1).

It is argued that due to the injury of fracture of both bones of left leg, movements of Satpal Nath were restricted for more than three months,, but the Tribunal has awarded Rs.4500/- towards 'loss of income' for one month only and similarly lesser amount of Rs.20,000/- has been awarded under the heads of 'pain and suffering'. No compensation has been awarded under the heads of 'transportation to hospital', 'attendant charges', 'diet and nutrition' and 'loss of prospects of marriage'.

Having considered the submissions, the injuries, the treatment and also the disability of 10% suffered by Satpal Nath, it will be appropriate to award Rs.50,000/- in addition to the amount of Rs.70,524/- already awarded by the Tribunal. Ordered accordingly.

Conclusion :

Hence, the appeals are allowed. The impugned award is modified to the extent indicated above and the claimants are held to be entitled to the following enhanced compensation:-

