

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5094 of 2015
Date of Decision: 06.03.2018

Sumit

.....Appellant

Vs.

Kapoor Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sagar Aggarwal, Advocate, for the appellant.

Mr.M.B.Jain, Advocate, for the respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 05.03.2015, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.4,04,014/- was awarded to the claimants on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 04.03.2012 , the claimant Sumit and one Jatinder were going to distribute the marriage cares of their relative Amit, on a motor cycle bearing registration No.HR-75-1957 driven by Jatinder and after delivering the marriage cards, at about 6:30 p.m., when they reached near Singla Petrol Pump Within the area of Nissing on Karnal-Nissing Road, in the meantime a four wheeler TATA ACE bearing registration No.HR-45A-2920 coming from village side, which was being driven by its driver i.e. respondent No.1

the motor cycle by coming from the wrong side. Due to this impact of the accident, both the occupants of the motor cycle fell down on the road and sustained several injuries on their bodies. An FIR No.80 dated 10.03.2012, for the offence under Sections 279, 337, 338 of IPC was got registered in Police Station, Nissing, Karnal.

COMPENSATION ASSESSED BY MACT

A perusal of the Award shows that as per statement of PW-8, Dr.Vinod Kamal, who stated that on 12.02.2014, he along with members of the board examined the patient for assessment of disability. Disability was assessed as 15% as per disability certificate Ex.P40 that this disability was only towards a particular limb and in terms of whole body, it shall be fifty percent of the total. As such, from the testimony of this witnesses, it is proved that the claimant had suffered a disability of about 7 ½ % qua the whole body. As such, he was held entitled to another sum of Rs.15,000/- on account of loss of future income and capacity to work on account of disability.

The Tribunal held that the deceased was 25 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Loss of income during treatment	Rs.1,56,014/-
2.	Attendant and special diet	Rs.15,000/-
3.	Pain and suffering	Rs.20,000/-
4.	Disability	Rs.13,000/-

5.	Loss of marriage prospect	Rs.2,00,000
	Total	Rs.4,04,014/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment of **National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017.**

On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Loss of income during treatment	Rs.1,56,014/-
2.	Attendant and special diet	Rs.25,000/-
3.	Pain and suffering	Rs.20,000/-
4.	Disability	Rs.13,000/-
5.	Loss of marriage prospect	Rs.2,00,000
	Total	Rs.4,14,014/-
	Enhanced amount of compensation	Rs.4,14,014/- ----- Rs.4,04,014/- =Rs.10,000/-

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

06.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No