

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 451 of 2016

Date of decision : 09.05.2018

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Rahul

.....Appellant

Versus

Rajesh and others

.....Respondents

* * * * *

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

* * * * *

Present: Mr. Tarurag Gaur, Advocate for the appellant.

Ms. Vandana Malhotra, Advocate for SBI General
Insurance Co. Ltd.

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RITU BAHRI, J

The present appeal has been filed by Rahul, the appellant-claimant seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 27.4.2015, on account of injuries suffered by the appellant-claimant in a vehicular accident on 20.10.2013.

Briefly stated, the facts of the case are that on 20.10.2013, the appellant-claimant was coming back from his sister's house on his motorcycle bearing registration no. HR-10L-9225. His brother namely, Neeraj was also coming behind him on a separate vehicle. When the appellant-claimant reached before Bharat Petrol Pump Bahalgarh, all of a sudden, a truck bearing registration no. HR-11-H-1000 came from Bahalgarh side being driven at a

very high speed and in a rash and negligent manner. He turned the truck from wrong side and struck the appellant-claimant straightway. As a result of the impact, the appellant-claimant fell down at the spot and received grievous injuries on various parts of body. Appellant-claimant was taken to the General Hospital, Sonapat immediately by his brother and several other people. From there, he was referred to PGIMS Rohtak. But the brother of the appellant-claimant namely, Neeraj admitted the petitioner in Mansarover Hospital, Rohtak with the help of his relatives where he remained admitted for several days. In this regard, FIR Ex.P-2 was also registered against the driver of the offending vehicle in question for causing the accident due to rash and negligent driving.

Rahul, the injured, filed claim petition bearing M.A.C.T No. 41 of 2014, on account of the injuries suffered by him in the accident. As per the claimant, he was 21 years of age, at the time of the accident.

After hearing counsel for the parties and going through the evidence placed on the record, Tribunal arrived at a conclusion that the appellant-claimant suffered injuries in the accident which had taken place on account of rash and negligent driving of offending truck No. HR-11-H-1000 being driven by Rajesh-respondent no.1.

The age of the petitioner was stated to be 20 years, at the time of the accident. There was no dispute regarding the age of the appellant-claimant. As per the evidence of PW-1, Dr. S.P Sharma, disability of the appellant-claimant was assessed at 85% on account of head injuries with right sidesever weakness with mild dysarthria with IQ 65. No evidence in rebuttal had been led by the respondents. It was held that the appellant-claimant suffered 85% disability and as such his earning capacity is also reduced 85%

in this case. The income of the appellant-claimant was taken by the Tribunal as Rs.6000/- per month. As per the law laid down by Hon'ble the Apex Court in the case of **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 AIR SC 3104**, the multiplier of 18 was applied in this case. By applying the multiplier of 18, the compensation on account of permanent partial disablement came to Rs.6000x12x18=Rs.12,96,000. Since the appellant-claimant suffered disability to the extent of 85%, he was held entitled to 85% of this amount, which came to Rs.11,01,600/-. Further an amount of Rs.10,000 towards pain and sufferings, Rs.10,05,919/- towards medical expenses, Rs. 20,000/- towards special diet/attendant charges/hospitalization and Rs.10,000 towards transportation charge was awarded. Thus, in total the appellant-claimant was held entitled to a total compensation of Rs.21,47,519/-.

Feeling dissatisfied with the impugned award, the injured claimant-appellant came up in this appeal.

Counsel for the appellant-claimant made a reference to a judgment by Hon'ble the Supreme Court of India in the case of ***Sanjay Kumar vs. Ashok Kumar and another 2014(1) RCR (Civil) 875***, wherein the claimant who was earning Rs.4500/- per month suffered 70% permanent disability in motor accident. It was held that *'Loss of future prospects' should be added to this amount as it cannot be accepted that an embroiderer will not have a future increment. In that case keeping in mind the young age of victim he was held entitled to 50% increase towards his future income.* Reference has also been made to a judgment of this Court in the case of ***Parveen vs. Vikram and others 2016(2) RCR (Civil) 717***. In this case claimant suffered

Age of the claimant was 20 years at the time of accident. Multiplier of 18 was applied. 50% of his income was added towards prospectuses of increase.

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

The fact of accident is admitted and proved. As the appellant-claimant was a young man of 20 years, reasonable future increase towards his income is expected. Applying the ratio of law of the above mentioned judgments, 40% increase is given towards future prospects. Thus, the compensation under the head 'Loss of future earning on account of permanent disability' is hereby calculated after applying multiplier of 18 at $6000+2400 \times 12 \times 18 = \text{Rs.}18,14,400/-$. Eighty Five per cent of this amount would be taken as $\text{Rs.}15,42,240/-$. The compensation is reassessed as follows:

<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
<i>Loss of future earnings on account of permanent disability</i>	<i>Rs.15,42,240/-</i>
<i>Pain and suffering</i>	<i>Rs.3,00,000/-</i>
<i>Medical expenses</i>	<i>Rs.10,05,919/-</i>
<i>Special Diet and Transportation Charges</i>	<i>Rs.50,000+Rs.25,000=Rs.75,000/</i>
<i>TOTAL COMPENSATION AWARDED:-</i>	<i>Rs.29,23,159 /-</i>
<i>ENHANCED AMOUNT OF COMPENSATION</i>	<i>(Rs.29,23,159/-)-(Rs.21,47,519/-) =Rs.7,75,640/-</i>

The enhanced amount of compensation of $\text{Rs.}7,75,640 /-$ 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 others in Civil Appeal No. 448 of 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.

09-05-2018

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(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No