

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

FAO No. 734 of 2015

Date of decision:- 10.01.2018

Malkit Singh

...Appellant

Versus

Avtar Singh @ Tari and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Abhishek Arora, Advocate
for the appellant

Mr. Suvir Kumar, Advocate
for respondent No. 1 and 2

Ms. Madhu Sharma, Advocate
for respondent-Insurance company

RITU BAHRI J. (Oral)

C.M. No. 2019-CII-2015

For the reasons mentioned in the application, delay of 207 days
in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

F.A.O No. 734-2015

1. The present appeal has been preferred by the injured-appellant
(for short 'the appellant'), against award dated 03.01.2014 passed by the
learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal')
to the tune of Rs.04,40,000/-.

FACTS NOT IN DISPUTE

2. On 15.02.2012, appellant was coming on his motorcycle No.
PB-11-A-6942 from Patiala. When he reached near Bajigar Basti at the

Tohra-rurki Road, he noticed the offending vehicle, which was being driven by respondent No. 1 rashly and negligently. The claimant stopped his motorcycle on the left side of the road and respondent No. 1 hit the appellant, as a result of which he fell down and the rear wheels of the vehicle crossed over his right leg and he became unconscious. The appellant was rushed to Rajendra Hospital in an ambulance from where he was transferred to Amar Hospital, Patiala and then was further referred to Fortis Hospital for treatment. The right leg of the appellant was badly crushed and was amputated at right knee.

COMPENSATION ASSESSED BY MACT

3. The learned Tribunal assessed the salary of the claimant to the tune of Rs.4000/- per month and his loss of monthly income was assessed at Rs.2500/- per month. Multiplier of 13 was applied and he was held entitled to a compensation of Rs.3,90,000/- on account of permanent disability. Rs.20,000/- were awarded towards transportation, Rs.20,000/- were awarded towards pain and agony and Rs.10,000/- were awarded towards special diet. He was awarded total compensation of Rs.4,40,000/-

4. Learned counsel for the appellant has further referred 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

5. 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.

6. 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.

7. On the other hand, learned counsel for the Insurance Company has opposed the prayer made by the appellant for enhancement of compensation.

8. I have heard learned counsel for the appellant and perused the record.

RE-ASSESSED COMPENSATION

The accident is not in dispute and the appellant had also

suffered 80% permanent disability. He is the only male member to earn livelihood for entire family. His right leg above knee was to be amputated.

10. Reference can be made to the judgment of Hon'ble the Supreme Court of India in the case of *Syed Sadiq etc. vs. Divisional Manager, United India Ins. Co. 2014(1) RCR (Civil) 765*, where the accident victim was aged 24 years and was vegetable vendor. It was held that a vegetable vendor is reasonably capable of earning Rs.6500/- per month with 50% increment in the future prospect of income. Multiplier of 18 was applied for calculating the amount of compensation

11. In the facts of the present case, the fact which is not dispute that both the legs of the appellant were amputate, resulting in 80% disability.

12. Applying the ratio of the above mentioned judgments, the compensation is re-assessed as under:-

HEAD	COMPENSATION AMOUNT
Salary (Income)	Rs.4000 per month
Annual Salary	Rs.4000X12=48,000/-
Future Prospect 25%	Rs.48000 + Rs.12000 = Rs.60,000/-
Loss on account of 80% disability (taken to be 100%)	Rs.60,000
Multiplier of 13	60000 X13=7,80,000/-
1/3rd deducted as personal expenses of the injured=	780000-260000=Rs.05,20,000/-
Special Diet, Transportation Charges, Attendant Charges, Pain and suffering etc	Rs.1,00,000/-
Total compensation awarded:-	Rs.06,20,000/-
Enhanced amount of compensation	06,20,000-04,40,000=Rs.1,80,000/-

13. The enhanced amount of compensation of Rs.1,80,000/- 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 @ 9% 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 *Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539*. Remaining conditions of disbursal of amount shall remain unaltered.

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

January 10, 2018
G Arora

(*RITU BAHRI*)
JUDGE

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