

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3778-2017 (O&M)

Date of decision: 18.05.2018

Naresh

...Appellant

V/s.

Hari Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Surinder Dagar, Advocate for the appellant.

Mr. Rajneesh Malhotra, Advocate for
respondent-insurance co.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 31.01.2017 passed by Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal') whereby he has been awarded a compensation of Rs.6,55,172/- on account of suffering injuries which has resulted into 100% disability in a road accident that took place on 16.03.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.03.2015, Naresh along with his brother Mahesh were returning from Hathin to their village Mindkola, while driving motor-cycle registration No. HR-52C-8462 being driven by his brother Mahesh and when they reached near village Mandnaka turn, a canter registration No. UP-85-AH-9512 came, being driven by respondent No. 1 rashly and negligently hit their motor-cycle from behind and as a result of which the motor-cycle of the petitioner rammed into a safeda tree and as a result of which, petitioner fell down on the road. He received serious multiple injuries on his spine, hand and all over the body and has become permanent disabled for whole life.

With regard to the alleged accident, an FIR No. 99 dated 30.03.2015 (Ex.P5) under Sections 279, 337 and 338 IPC at Police Station Hathin was registered against respondent No. 1-Hari Singh. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR No. 99 dated 30.03.2015 (Ex.P5) under Sections 279, 337 and 338 IPC at Police Station Hathin was registered against the driver. Copy of MLR has been proved as Mark-J and charges have been framed on 11.06.2015 against the driver and the case was listed for prosecution evidence. PW5 Dr. Chirag Sethi had proved disability certificate Ex.P6 and stated that patient was found as 100% disable.

The Tribunal has assessed the compensation as under:-

HEADS	CALCULATIONS
Age of the injured	25 years
Income	3000
Dependency	3000 X 12 X 16=5,76,000/-
Loss of income, transportation charges	10,000/-
Attendant charges	10,000/-
Pain and suffering	10,000/-
Total	Rs. 6,55,172/-

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. The claimant was 25 years of age and as

per the disability certificate Ex.P6, Dr. Chirag Sethi examined the claimant and found him as 100% disable and he also proved the medical bills ranging from Mark K to W and X1 to Y1, Z1 to Z43 amounting to Rs.32,434/- but no amount has been given for medical bills.

To meet the ends of justice, the compensation is hereby reassessed in view of the judgment passed by this Court in *Parveen V/s. Vikram and others, 2016(2) R.C.R. (Civil) 717* as under:-

HEADS	CALCULATIONS
Income	Rs.6000
50% future prospects	6000+3000=9000
Loss of future earning on account of permanent disability (9000X 12 X18)	19,44,000
Loss of income during treatment between the date of accident 16.03.2015 and the order of the Tribunal 31.01.2017 (6000 X 22)+ 3484 (6000/31 X18)	1,35,484
Medical bills	32,434
Attendant charges (for 35 years)	3000 X12X35=12,60,000
Transportation	20,000
Pain and suffering	3,00,000
Loss of amenities and loss of expectation of life	3,00,000
TOTAL COMPENSATION AWARDED	Rs. 39,91,918/-
ENHANCED AMOUNT OF COMPENSATION	Rs.39,91,918-Rs.6,55,172/- = Rs.33,36,746/-

The enhanced amount of compensation of **Rs.33,36,746/-** 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 V/s. 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 allowed.

(RITU BAHRI)
JUDGE

May 18, 2018
Divyanshi

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