

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

FAO No. 1825 of 2019

Date of decision:- 26.11.2019

Vikram Rishi

...Appellant

Versus

Jaskanwal Preet Singh and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vikram Bali, Advocate for the appellant.

Mr. Parveen Gupta, Advocate, for respondent No. 1

Mr. Punit Jain, Advocate, for respondent No. 3/Insurance Co.

RITU BAHRI J. (Oral)

The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 07.11.2017 passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') whereby claimant was awarded compensation of Rs.3,23,388/-.

The facts in brief are that on 24.12.2014, the claimant-appellant was going from Chandigarh to his village Chhachhrauli, District Yamuna Nagar while driving his motorcycle bearing No. HR-71-C-5090. When he reached near Balbir Dhaba, in the meantime, the offending car bearing No. HR-03-J-3061 being driven by respondent No. 1 came in a rash and negligent manner and struck against the motor cycle of the appellant. The appellant fell down and suffered injuries. He was taken to General Hospital, Sector 6, Panchkula from where he was referred to PGI, Chandigarh. F.I.R No. 23 dated 27.01.2015 under Sections 279/337/338 IPC was registered against respondent No. 1 at P.S. Chandimandir.

While assessing the compensation, the Tribunal awarded

Rs.2,43,000/- towards loss of income due to functional disability, which was assessed at 15%, Rs. 7500/- towards loss of income for one month, Rs.22,888/- towards medical bills, Rs. 25,000/- towards hospitalization and healthy diet, Rs.20,000/- towards pain and sufferings and Rs.5000/- on account of loss to motorcycle. The appellant was awarded total compensation of Rs.3,23,388/-.

At the very outset, learned counsel for the appellant has referred to judgment of Hon'ble the Supreme Court of India in a case of ***Dinesh Singh vs. Bajaj Allianz General Insurance Co. Ltd, passed in Civil Appeal Nos. 8215 and 8216 of 2009, decided on 23.04.2014*** wherein appellant who aged 24 years and due to accident, his one leg was amputated. He suffered 60% permanent disability. He was awarded Rs.5.50 lacs under future medical expenses.

Reference has further been made to judgment of this Court in a case of ***Parveen v. Vikram and others, passed in FAO No. 308-2011, decided on 30.09.2015*** wherein claimant suffered 70% permanent disability but this Court took 100% functional disability and awarded him compensation to the tune of Rs.24,90,650/-.

Learned counsel submits that in the present case it is not in dispute that the appellant has suffered 22% disability and is working as Sales Officer in Platinum Credit Solution. The appellant has suffered fracture right SOF and thus the Tribunal has erred in law by taking the functional disability of the appellant at 15% for awarding the compensation.

Heard learned counsel for the parties.

It is not in dispute that there is disability of 22% which is permanent in nature and appellant was working as Sales Officer. His

functional disability can be taken at 20% (Ex P-20), keeping in view the above mentioned judgments.

Since the appellant in the present case was working as Sales officer and will face difficulty in doing his work, his functional disability can be taken at 20% for determining the compensation.

Applying the ratio of the above mentioned judgments, the compensation is re-assessed as under by applying the multiplier method:-

<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
Income	Rs.7500 per month
Annual Salary	Rs.7500X12=90,000/-
Multiplier of 18	90000X18=16,20,000/-
Loss on account of 20% disability	1620000 X 20/100=Rs.3,24,000/-
Loss of income for two months	Rs.7500 X 2=Rs.15000/-
Pain and sufferings	Rs.25,000/-
Hospitalization and Special Diet	Rs.25,000/-
Loss to motorcycle	Rs.5,000/-
Medical Bills	Rs.22,888/-
Total compensation	Rs.4,16,888/-
Enhanced amount of compensation	416888-323388=Rs.93,500/- (rounded off to Rs.94,000/-)

The enhanced amount of compensation of Rs.94,000/- 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 in view of judgment of *Hon'ble the Apex Court in Civil Appeal No. 4528-2019 titled as Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019.*

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

26.11.2019
G Arora

(*RITU BAHRI*)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No