

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.681 of 2002 (O&M)

Date of Decision: 15.10.2019

Ramesh Kumar

..Appellant

Vs.

Nishan Singh and others

..Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.O.P.Gabba, Advocate for the appellant.

Mr.Vinod Gupta and Mr.Gopal Mittal, Advocates for
respondent No.3.

RITU BAHRI, J.

The claimant has come up in appeal against the award of the Tribunal dated 3.10.2001 whereby compensation of ₹1,67,428/- has been awarded to the claimant on account of injuries suffered by him on 24.6.1993 in a road accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.6.1993 Ramesh Kumar alongwith Gulshan Kumar was going to Rohtak driving canter No.HR-06-6613 owned by Surinder Kumar. When the canter reached on *kacha* path of village Dharmuwala, at about 2 p.m. the offending truck No.RNC-5983, being driven by Nishan Singh, respondent No.1 came at a fast speed, rashly and negligently and caused the accident. As a result of which, the claimant sustained multiple injuries on his right thigh, right leg, right hand and also

operation for the treatment of fractures sustained by him at Medical College and Hospital Rohtak. He remained admitted in hospital from 25.6.1993 to 13.9.1993. In this regard, FIR No.150 dated 24.6.1993 under Sections 279/337/338/427 IPC was registered against respondent No.1.

The parties are not in dispute with respect to finding on issue No.1 that the accident took place due to rash and negligent driving of respondent No.1 by driving the offending truck. This finding has been rightly given in favour of the claimant keeping in view that FIR No.150 dated 24.6.1993 under Sections 279/337/338/427 IPC was registered against respondent No.1 and challan was also presented in the Court. Respondents have been jointly held liable to make compensation. Dr.Sansar Sharma, Associate Professor, PGI MS Rohtak (AW3) has categorically stated that the claimant has suffered permanent disability to the extent of 45% i.e. shortening of his right leg by two inches and deformity of his right arm and he is unable to drive heavy vehicle. Keeping in view the age of the claimant as 38 years and disability to the extent of 45%, the Tribunal has assessed the compensation as under:

<i>Sr.No.</i>	<i>Head of Compensation</i>	<i>Amount</i>
(i)	On account of expenses on medicines	Rs.35,428/-
(ii)	On account of taxi charges	Rs.12,000/-
(iii)	On account of admission in hospital on second time and future treatment	Rs.40,000/-
(iv)	Pain and suffering and loss of pleasure	Rs.10,000/-
(v)	Attendant charges	Rs.10,000/-
(vi)	Special diet	Rs.10,000/-
(vii)	Loss of Income	Rs.50,000/-
(viii)	TOTAL	Rs.1,67,428/-

The claimant was found entitled to total compensation of Rs.1,67,428/- alongwith interest @ 9% per annum from the date of filing of

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

RE-ASSESSED COMPENSATION

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

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. It stands established that the claimant has suffered 45% disability as a result of the accident, for which compensation of ₹50,000/- was given and it requires to be modified and enhanced. Rest of the compensation was awarded keeping in view the medical bills and the sufferings. The claimant was 38 years of age and he was driving the vehicle when he met with the accident. Keeping in view the minimum wages in Punjab in the year 1993, ₹2000/- p.m. can be taken as wages for skilled labour (driver).

The compensation requires to be re-assessed in view of the judgments passed by Hon'ble the Supreme Court in *Raj Kumar vs. Ajay Kumar and others 2011(2) RCR (Civil) 101* as under:

Sr.No.	Heads	Calculations
(i)	Income	₹2000x12= ₹24,000/-
(ii)	After applying multiplier of 15	₹24,000x15= ₹3,60,000/-
(iii)	After adding 70% permanent disability	₹6,12,000 (3,60,000+2,52,000)
(iv)	Less ₹50,000/- (earlier granted as loss of income)	₹5,62,000/-
(v)	On account of taxi charges (same)	₹12,000/-
(vi)	On account of admission in hospital on second time and future treatment (same)	₹40,000/-
(vii)	Pain and suffering and loss of pleasure (same)	₹10,000/-
(viii)	Attendant charges (same)	₹10,000/-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculations</i>
(ix)	Special diet (same)	₹10,000/-
(x)	Total compensation	₹6,44,000/-
(x)	Enhanced amount of compensation	₹6,44,000-1,67,428= ₹4,76,572/-

The enhanced amount of compensation of ₹4,76,572/- 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 @ 9% per annum from the date of filing the claim petition, till its realisation, in view of the judgment of Hon'ble the Supreme Court in the case of *Dara Singh @ Dhara Banjara Versus Shyam Singh Varma and others, Civil Appeal No.4528 of 2019*. Remaining conditions of disbursal of amount shall remain unaltered.

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

15.10.2019

Meenu

(Ritu Bahri)
Judge

Whether speaking/reasoned

Whether Reportable

- Yes/No

- Yes/No