

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1107 of 2001  
Date of decision: 20.09.2019

Balvinder Singh

...Appellant

V/s.

Tarsem Lal and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Mr. Sanjay Mittal, Advocate for the appellant.

Mr. Umesh Kumar Kanwar, Advocate  
for respondent No. 2.

Ms. Anamika Mehra, Advocate for  
respondent No. 3-Insurance Co.

\*\*\*

**RITU BAHRI, J. (Oral).**

The claimant has come up in appeal against the award of the Tribunal dated 05.09.2000 whereby he has been awarded compensation of Rs.94,500/- on account of 40% disability suffered in a road accident which took place on 21.02.1998.

Brief facts of the case are that the claimant was aged 40 years and was employed as a driver of truck No. DL-1-GA-1786. On 21.02.1998, he being an occupant of the said truck was coming from Bangalore and was going to Delhi. At that time, the truck was being driven by second driver Tarsem Lal, respondent No. 1. At about 5:30 a.m. when they reached near crossing of Mokhampura culvert on National Highway No. 8, the truck in question was being driven by respondent No. 1 in a high speed, zig zag manner and without adhering to the traffic norms, struck against the culvert existing there and as of result of which the truck turned turtle and

consequently the claimant received serious injuries and fracture on his left leg and hip.

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of negligent driving by the driver of the offending vehicle. This finding has been rightly given in favour of the claimant keeping in view that FIR No. 59 dated 20.02.1998 under Sections 279 and 337 IPC (Ex.P1) was registered and the confessional statement made by the driver before the Civil Judge-cum-Judicial Magistrate, Sambar Lake, District Jaipur.

The disability certificate (Ex.P2) has been proved by PW3 Dr. Akhlaq Ahmed, Orthopedic Surgeon, General Hospital, Gurgaon. He opined that claimant suffered 40% disability and the disability certificate Ex. P2 has been issued by him along with signatures of other members of the board. He further stated that the disability of the claimant is permanent which cannot be cured with the passage of time or by physiotherapy treatment. The claimant remained bed ridden and he suffered hip fracture and a rod was inserted therein. Keeping in view the same, the Tribunal had assessed following compensation:-

| Sr. No. | HEADS                                                                        | CALCULATIONS        |
|---------|------------------------------------------------------------------------------|---------------------|
| (i)     | 40% disability                                                               | Rs.40,000/-         |
| (ii)    | Medical expenses                                                             | Rs.40,000/-         |
| (iii)   | Loss of income for three months                                              | Rs.4,500/-          |
| (iv)    | Future loss of income, mental pain and suffering and transportation expenses | Rs.10,000/-         |
|         | <b>TOTAL COMPENSATION AWARDED</b>                                            | <b>Rs. 94,500/-</b> |

Hence, the claimant was found entitled to total compensation of Rs.94,500/- along with interest @ 12% 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.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. It stands established that the claimant has received injuries as a result of the accident. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

The claimant was 40 years of age and was employed as Driver of truck bearing No. DL-1-GA-1786 owned by respondent No. 2 and was getting Rs.5,000/-including daily allowance and diet money as salary. Keeping in view that he was Driver and suffered 40% disability on account of fracture in the hip and insertion of rod, he cannot drive vehicle and functional disability as per the judgment of **Raj Kumar V/s. Ajay Kumar and others 2011(2)RCR (Civil)101**, can be assessed as 50%. The accident had taken place in the year 1998 and keeping in view the minimum wages prevalent in 1998 in State of Haryana, i.e. Rs.2,500/-p.m, the multiplier method has to be applied for the 50% permanent disability.

Hence, to meet the ends of justice, the compensation is hereby reassessed taking the income of the injured as Rs.2,500/- p.m. and keeping in view the judgment passed by Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

| Sr. No. | HEADS                                                          | CALCULATIONS                |
|---------|----------------------------------------------------------------|-----------------------------|
| (i)     | Annual Income                                                  | Rs.2,500 X12=Rs.30,000/-    |
| (ii)    | 40% of (i) is to be added as future prospects                  | 30,000+12,000=Rs.42,000/-   |
| (iii)   | Compensation for 50% disability after multiplier of 15 applied | 42,000X15X50%=Rs.3,15,000/- |
| (iv)    | Medical expenses                                               | Rs.40,000/-                 |
| (v)     | Loss of income                                                 | Rs.4,500/-                  |

|      |                                                                    |                                                |
|------|--------------------------------------------------------------------|------------------------------------------------|
| (vi) | Future loss, mental pain and suffering and transportation expenses | Rs.1,00,000/-                                  |
|      | <b>TOTAL COMPENSATION AWARDED</b>                                  | <b>Rs. 4,59,500/-</b>                          |
|      | <b>ENHANCED AMOUNT OF COMPENSATION</b>                             | <b>Rs.4,59,500-94,500/-=<br/>Rs.3,65,000/-</b> |

The enhanced amount of compensation of **Rs.3,65,000/-** 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 of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of ***Dara Singh @ Dhara Banjara V/s. 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 present appeal is allowed.

**(RITU BAHRI)**  
**JUDGE**

**20.09.2019**  
**Divyanshi**

|                                  |          |               |
|----------------------------------|----------|---------------|
| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes/No</b> |
| <b>Whether reportable</b>        | <b>:</b> | <b>Yes/No</b> |