

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3811 of 2001

Date of decision: 06.11.2019

Tarun Gupta

...Appellant

V/s.

Maninder Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. T.R.Dutta, Advocate
for the appellant.

Mr. R.N.Singal, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The appellant has come up in appeal against the award of the tribunal dated 10.05.2001 whereby he has been awarded compensation of Rs.3,37,592/- on account of suffering injuries in a road accident which took place on 05.10.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.10.1999, the appellant was coming from Sector 17, Chandigarh to Mohali on Scooter No. HR-29E-9102 on the left side with moderate speed. When he was on the dividing road of Sector 40-41, leading towards Mohali, a Maruti Car bearing registration No.PB-65-A-0757 was coming from the opposite side. It was being driven by respondent No.1 rashly and negligently. Respondent No.1 jumped his lane and crossed towards the right side and hit the scooter. The appellant was dragged by the car for about 100 meters. Due to the accident,

he received head injuries and sustained multiple fractures on both the legs. Consequently, the claimant-appellant filed a claim petition before the tribunal.

COMPENSATION ASSESSED BY THE MACT

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 FIR No. 180 dated 17.10.1999 (Ex.P127) was registered against respondent No.1 at Police Station Sector 36, Chandigarh by Chaman Lal (PW2), who was the eye witness of the occurrence.

The appellant was 27 years of age at the time of accident and was working as Assistant Manager in PUNWIRE. The medical certificates of the claimant are Ex.P2 to Ex.P10. As per the disability certificate (Ex.P11) which was proved by PW6 Dr. B.R.Jain, the physical disability of the claimant was declared 15% with respect to both lower limbs. The tribunal had assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income after deduction of income tax	14,000/-p.m.
(ii)	Loss of salary for the period 05.10.1999 to 03.07.2000	Rs.1,26,000/-
(iii)	15% disability	Rs.30,000/-
(iv)	Special diet	Rs.5,000/-
(v)	Attendant charges	Rs.17,500/-
(vi)	Medical bills (Ex.P12 to Ex.P123)	Rs.1,09,092/-
(vii)	Pain and suffering	Rs.50,000/-
	TOTAL COMPENSATION AWARDED	Rs.3,37,592/-

Hence, the claimant was found entitled to total compensation of Rs.3,37,592/- along with 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.

REASSESSED COMPENSATION

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 physical disability to the extent of 15% with respect to both lower limbs as per the disability certificate (Ex.P11), 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.

A perusal of the award shows that the claimant has not been compensated under the heads of future loss of amenities and transportation. To meet the ends of justice, the compensation is hereby reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in *Raj Kumar Vs. Ajay Kumar and others* 2011(2)R.C.R. (Civil) 101 SC and *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)	Income after deduction of income tax	14,000/-p.m.
(ii)	Loss of salary for the period 05.10.1999 to 03.07.2000	Rs.1,26,000/-
(iii)	15% disability	Rs.30,000/-
(iv)	Special diet	Rs.5,000/-
(v)	Attendant charges	Rs.17,500/-
(vi)	Medical bills (Ex.P12 to Ex.P123)	Rs.1,09,092/-
(vii)	Pain and suffering	Rs.50,000/-
(viii)	Loss of amenities	Rs.20,000/-
(ix)	Transportation	Rs.5,000/-
	TOTAL COMPENSATION AWARDED	Rs.3,62,592/-
	ENHANCED AMOUNT OF COMPENSATION	3,62,592-3,37,592=Rs.25,000/-

The enhanced amount of compensation of **Rs.25,000/-** 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 appeal is allowed.

(RITU BAHRI)
JUDGE

06.11.2019

Divyanshi

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