

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

**FAO No.4589 of 2005 (O&M)
Date of decision: 29.10.2019**

Rajesh Kumar

....Appellant

Versus

Bijender and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suryakant Gautam, Advocate,
for the appellant.

Mr. Suman Jain, Advocate,
for respondent No.4-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 13.04.2005, on account of injuries received by him in a motor vehicular accident which took place on 16.07.2002.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.07.2002, claimant-appellant (Rajesh Kumar) along with Bajor, Radhey Shyam and Smt. Krishna were travelling in a jeep bearing registration No.HR-46-A-7738 from Rohtak to Karontha. The said jeep was being driven by Bijender-respondent No.1 in a rash and negligent manner. When they reached in the area of village Shimli, respondent No.1 took the jeep on wrong side and

struck it against a bus bearing registration No.HR-46-A-6906, which was coming from the opposite side, as a result of which, all the occupants of jeep, including present claimant-appellant, received injuries. Unfortunately, aforesaid Smt. Krishna succumbed to the injuries. With regard to the accident, FIR No.205 dated 16.07.2002, under Sections 279/337/338/304-A IPC was registered against the driver of offending vehicle i.e. respondent No.1. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Rajesh Kumar-claimant (PW-1) and other witnesses. Ultimately, the claim petition was allowed and the compensation was assessed as under:-

Sr. No.	Heads	Amount
1	Compensation on account of medical bills	Rs.3230/-
2	On account of pain and suffering	Rs.5000/-
3	On account of 10% permanent disability	Rs.20,000/-
4	On account of future loss of income	Rs.10,000/-
	Total	Rs.38,230/-

The claimant was found entitled to a total compensation of Rs.38,230/- along with interest at the rate of 9% per annum from the date of filing of 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. Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle by its driver. A perusal of the impugned award shows that claimant had suffered injuries on both hands, head, shoulder and one leg. He had received fractures in both hands. Dr. Ashwani Sharma (PW-3) proved the disability certificate Ex.P9, as per which, claimant had suffered permanent disability to the extent of 10%. Due to fractures in both the hands, he will have difficulty in doing any work. In view of the said fact, functional disability (qua working ability) of the claimant can be taken as 40%. In this case, the compensation has to be assessed by applying the multiplier method. In the given circumstances, income of the claimant-appellant (as per minimum wages) is being taken as Rs.2000/- per month. In this income, 40% addition is made on account of future prospects, which comes to Rs.2800/- (2000 + 800). After applying the multiplier of 15, compensation, on account of 40% permanent disability, comes to Rs.2,01,600/- (Rs.2800 x 40/100 x 12 x 15). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Medical bills	Rs.3230/-
(ii)	Pain and sufferings	Rs.10,000/-
(iii)	Future loss of income on account of permanent disability	Rs.2,01,600/-

(iv)	Special diet, attendant and transportation etc.	Rs.15,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.2,29,830/-
(vi)	Enhanced amount of compensation	Rs.2,29,830 – 38,230 = Rs.1,91,600/-

The enhanced amount of compensation of **Rs.1,91,600/-** 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 vs. Shyam Singh Varma and others**, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019) (decided on 01.05.2019). Remaining conditions of disbursal of amount shall remain unaltered.

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

(RITU BAHRI)
JUDGE

29.10.2019
ajp

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