

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

487

FAO No.1179 of 2006
Decided on : 18.07.2019

Jagmal

... Appellant

Versus

Dara Singh and others

.. Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present : Mr.Sandeep Kotla, Advocate
for the petitioner.

Mr.Sandedep Suri, Advocate
for the Insurance Company.

Ritu Bahri, J. (Oral)

Claimant has approached this Court by way of filing the present appeal for enhancement of the compensation awarded by the tribunal whereby claimant has been awarded the compensation of Rs.2,23,400/- on account of injuries suffered by him in a road accident which took place on 4.5.2004.

Brief facts of the case are that on 4.5.2004, the claimant along with his son-in-law Mange was going to Bhattu Kalan from Bhadra in a bus bearing registration No.RJ-31/0321. The said bus was being driven by Dara Singh respondent No.1. When the bus reached near Dhani of Partap Singh at village Dhabhi Kalan, claimant requested Dara Singh, respondent No.1 to stop the bus. Dara Singh acceded to the request and

stopped the bus. While the claimant was in the process of alighting from the bus, Dara Singh drove the bus without any horn and without any caution to anyone. As a result of a sudden movement of the bus, the claimant fell down on the ground and received multiple injuries. He was rushed to the Civil Hospital, Bhattu Kalan where he was medico legally examined. In view of the seriousness of the injuries suffered, he was referred to Medical College, Agroha where he was operated upon and was given treatment. He spent Rs.80,000/- on his treatment. Despite it, he has not been completely cured and has become permanently disabled. He claimed a sum of Rs.7 lacs as compensation for the injuries suffered by him in this accident.

Parties are not in dispute that finding on issue No.1 has been been rightly given. That FIR (Annexure P-7) has been registered against the driver, Dara Singh, respondent No.1. The complainant had appeared in the witness box as PW-1 and stated that the bus was being driven in a rash and negligent manner. No other suggestion was put forth. The said facts have been corroborated by Mange Ram, son-in-law of the claimant who appeared as PW-2 and was eyewitness of the accident.

Assessment of compensation by Tribunal :-

In view of the evidence adduced on record and the multiple injuries suffered by the claimant which were duly proved by the doctors, the finding has rightly been given by the Tribunal and the compensation has been assessed as under:-

Sr.No.	Heads	Amount (in Rs.)
1	Loss of future income on account of permanent disability.	Rs.2,00,000/-
2	Pain and suffering	Rs.10,000/-
3	Medical bills	Rs.8364/-
4	Special diet	Rs.5000/-
	Total	<u>Rs.2,23,364/-</u>

Reassessment of Compensation:-

Reference can be made to the judgment in “**Arvind Kumar Mishra, Vs. New India Assurance Comp, Ltd. and another**, 2010(3) Apex Court Judgments (SC) 484 wherein a compensation was awarded to the injured who suffered 70% permanent disability and the compensation was assessed by mincing future earning by 30% and multiplier would be 11.

In these circumstances, notional income of the claimant being agriculturist, is being assessed as Rs.3000/- per month. Keeping in view his age, multiplier of 11 is being applied. Accordingly, loss of income of claimant due to 76% disability, comes to **Rs.33,1056/-** (3000 x 76/100 x 12 x 11) along with 10% future prospects.

Keeping in view the peculiar circumstances of the present case and the factum of 76% permanent disability suffered by the claimant, compensation is hereby re-assessed in the light of the judgments passed by this Court in ***Muneet Kumar @ Mani vs. Naveen Joshi and others***, FAO No.6073 of 2012 (decided on 16.09.2015) tilted as **Rishi Pal vs. Sudhir Singh and another**, 2015 (48) RCR (Civil) 882,

as under:-

Sr.No.	Heads	Amount (in Rs.)
(i)	Income Rs.3000 X 12	Rs.36000
(ii)	10% of (i) above to be =36000 + 3600 added as future prospects	Rs.39,600/-
(iii)	Annual loss of Income to the extent of 76% disability after applying multiplier of 11	39600 X 76 % X 11=Rs.331056
(iv)	Special Diet/attendant/ transportation charges	Rs.10,000/-
(v)	Loss of amenities of life	Rs.1,50,000/-
(vi)	Future treatment	Rs.2,00,000/-
(vii)	Pain and suffering	Rs.1,50,000/-
(viii)	Compensation for medical expenses	Rs.8364/-
	Total compensation awarded	Rs.849420/-
	Enhanced amount of compensation	Rs.849420- Rs.2,23,364/- Rs.6,26,056

The enhanced amount of compensation of **Rs.6,26,056/-** 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 Apex Court in case titled as “**Dara Singh @ Dhara Banjara Vs. Shyam Singh Verma**” 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

18.07.2019

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No