

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3589 of 2006
Date of decision: 09.09.2019

Dharam Pal Sharma

...Appellant

V/s.

Darshan Singh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Dinesh Kumar, Advocate for the appellant.

Mr. Karminder Singh, Advocate for the respondents

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award of the Tribunal dated 18.05.2006 whereby he has been awarded compensation of Rs.90,000/- on account of injuries suffered in a road accident which took place on 23.02.2004.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.02.2004, Dharam Pal Sharma-claimant was going from Ambala City to Ambala Cantt. in a three-wheeler bearing No. HR-37-8085, which was being driven by one Kishan Kumar alias Sonu. Some other passengers were also travelling in said three-wheeler. When they reached near Engineer Military Park, on GT Road, a Tata Sumo bearing No. PB-08-AD-5142 (hereinafter referred to as 'offending vehicle') being driven by respondent No. 1 without observing any traffic rules, came from behind in a very rash and negligent manner and hit the three wheeler from behind. Due to that impact, three-wheeler turned turtle on the left side of the road and fell in the pitch. All the passengers

including the claimant sustained injuries. 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. 77 dated 23.02.2004 under Section 279/337, IPC was registered against respondent No. 1.

The claimant has suffered permanent disability to the extent of 40% as per Exh. P23 and the compensation has been assessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Compensation on account of permanent disability to the extent of 40% (Exh. P23)	Rs. 40,000/-
(ii)	Compensation on account of medical expenses (Exh. P2 to Exh. P11 & Exh. P12 to Exh. P19)	Rs. 6,500/-
(iii)	Compensation on account of hospitalization for 18 days & attendant charges (Exh. P20 and Exh.P21)	Rs.9,000/-
(iv)	Compensation on account of transportation expenses for 24 OPD check-ups. (at the rate of Rs.300/- per visit) (Exh. P21 & Exh.P22)	Rs.7,200/-
(v)	Compensation on account of pain & sufferings	Rs.27,300/-
	TOTAL COMPENSATION AWARDED	Rs. 90,000/-

Hence, the claimant was found entitled to total compensation of Rs.90,000/-. 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 suffered 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 has suffered injuries on his left eye and he has suffered disability to the extent of 40% as per Exh. P23. Functional disability is considered as 25%. The claimant was 73 year old at the time of accident and the accident took place in the year 2004. The claimant is a pension holder from Railway Department and getting pension of Rs.2,750/- per month. The compensation requires to be reassessed by applying multiplier method for disability 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. 2,750X12=Rs.33,000/-
(ii)	Multiplier of 5 applied	33,000X5=Rs.1,65,000/-
(iii)	25% functional disability	Rs.41,250/-
(iv)	Medical expenses	Rs.6,500/-
(v)	Hospitalization and attendant charges	Rs.9,000/-
(vi)	Transportation	Rs.7,200/-
(vii)	Pain and suffering	Rs.30,000/-
(viii)	Special diet	Rs.7,000/-
	TOTAL COMPENSATION AWARDED	Rs.1,00,950/-
	ENHANCED AMOUNT OF COMPENSATION	1,00,950-90,000=Rs.10,950/-

The enhanced amount of compensation of **Rs.10,950/-** 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

09.09.2019
Divyanshi

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