

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

FAO-1062-2008

Date of Decision:02.09.2019

Arjan Singh Gill

... Petitioner

Vs.

Devi Parshad and another

... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.2.

RITU BAHRI, J. (Oral)

The appellant has come in appeal before this Court seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 03.11.2007 whereby he has been awarded a compensation of ₹ 95,000/- on account of injuries received by him in a motor vehicular accident which took place on 22.02.2006.

Facts not in dispute

The brief facts of the case are that on 22.02.2006 at about 1:10 p.m, the appellant was going from his house in Kaimbwala to Punjab Secretariate while driving his scooter and when he reached back side road of the rock garden near the turning towards village Kaimbwala, at that time, a scooter bearing No.CH01-U-0156 came in a very fast speed driven by respondent No.1-Devi Parshad in a rash and negligent manner struck against the scooter of the appellant. As a result of this accident, the appellant

sustained serious injuries and was taken to the hospital.

The parties are not in dispute with regard to the finding given by the Tribunal in respect of issue No.1. Claimant sustained injuries in the accident which occurred on 22.2.2006 on account of rash and negligent driving of a scooter bearing registration No.CH01-U-0156. Consequently, FIR Ex.P2 was registered against the Driver and no evidence was led by the Insurance Company to the effect that the contents of the FIR were false. Compensation has been assessed keeping in view the disability certificate. Ex.R-6 was proved by PW-2/Dr. Ashok Gupta, GMH, Sector-16. He was one of the members of the medical board and had examined the claimant. He stated that he had suffered fracture neck femur and left knee in February 2006. He was operated upon on 22.03.2006. He was again admitted on 25.03.2006 and treated conservatively and discharged on 13.4.2006. He was again admitted on 10.05.2006 with the diagnosis of septic arthritis and under control diabetes. He was put on anti-biotic and anti diabetic treatment and was discharged on 17.7.2006.

Compensation assessed by the MACT

The Tribunal has awarded a sum of Rs.10,000/- on account of expenditure on transportation. A sum of Rs.70,000/- was awarded on account of disability sustained by the complainant. Further, the appellant was awarded a sum of Rs.15,000/- on account of pain and suffering. Thus, a total sum of Rs.95,000/- was awarded by the Tribunal.

A perusal of the award shows that 70% of disability was on the left lower limb. Claimant is a retired government servant. As per order of retirement, he was to retire from service on 28.2.2006. Accident in question had taken place on 22.2.2006. The claimant was working as Head Gate

Keeper in the office of Punjab Security Guard, Punjab, Civil Secretarial, Chandigarh. The claimant has made a statement that he was getting ₹ 8000/- as a salary. However, learned counsel for the claimant has stated that there is no direct evidence in respect of income of the claimant. However, it is orally submitted that the claimant was earning ₹ 8,000/- at the time of his retirement.

Keeping in view the fact that he retired at the age of 58 years, his monthly income can be re-assessed in view of the judgments of the Supreme Court rendered in the cases of National Insurance Company Ltd. v. Pranay Sethi and others; passed in Special Leave Petition (Civil) No.25590 of 2014, decided on October 31, 2017 as well as Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram; 2018 (4) RCR Civil 837 where the claimant had suffered permanent disability to the extent of 8% and he was working as a cleaner and multiplier of 9 was applied while taking into account the age of 58 years.

In view of the above discussion, compensation is re-assessed as under:

	Particulars	Amount (in ₹)
1	Income	₹ 84000 P.A
2	Compensation after multiplier of 9 is applied	₹ 84000 X 9 = ₹ 7,56,000/-
3	Disability 70%	₹ 5,29,200/-
4	Pain and suffering	₹ 50,000/-
5	Compensation in respect of Transportation charges/diet attendant	₹ 50,000/-
6	Enhanced amount of compensation	₹ 629200 – ₹ 95000 = ₹ 5,34,200/-

The enhanced amount of compensation of ₹ 5,34,200/- 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. Shyam Singh Verma and others*, Civil Appeal No.4528 of 2019; decided on 1.5.2019. Remaining conditions of disbursal of amount shall remain unaltered.

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

02.09.2019
rajeev

(RITU BAHRI)
JUDGE

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