

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 459 of 2010

Date of decision: 31.10.2019

Om Parkash

...Appellant

V/s.

Kashmira and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. S.S. Khurana, Advocate
for the appellant.

Mr. Puneet Sharma, Advocate for
Mr. Sandeep Saini, 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 01.09.2009 whereby he has been awarded compensation of Rs.6,83,826/- on account of suffering 100% permanent disability in a road accident which took place on 07.12.2006.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.12.2006 at about 12:30 p.m. Om Parkash was going on motor cycle No. HR-36E/3960 from his village Jonawas towards Bhiwari and Shankar along with other passengers was travelling in three wheeler going from Sohna Chowk Dharuhera to Bhiwari and when the said three wheeler reached near the Sharma Steel Dharuhera, Johad then TATA 407 No. HR-55-B/6270 suddenly came there from left side kachha Rasta which was being driven by respondent No. 1 in a very rash and negligent manner at a very high speed without observing

traffic rules and the said TATA 407 hit the motor cycle as well as three wheeler and said TATA 407 turned turtle and fell down on the motor cycle and three wheeler. Om Parkash suffered multiple grievous injuries and was picked up by the people and got admitted in Raman Munjal Hospital, Sidhrawali. The accident occurred due to rash and negligent driving of respondent No. 1. 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 an FIR No. 307 dated 07.12.2006 under Sections 279/337/338 IPC (Ex.P2) was registered against respondent No.1 at Police Station Dharuhera.

As per the statement of PW1 Dr. Ashok Saini, the claimant appeared before the medical board on 20.06.2007 and his disability is assessed to be 100% on account of paraplegia with calhelerisrtion. The disability certificate (Ex.P1) has been signed by him. The claimant was 55 years of age at the time of accident. The Tribunal had assessed the monthly income of the claimant as Rs.6,000/- and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6,000/- p.m.
(ii)	Loss of income after applying multiplier of 11	6,000X12X11X2/3=5,28,000/-
(iii)	Medical bills	Rs.1,55,826/-
	TOTAL COMPENSATION AWARDED	Rs.6,83,826/-

Hence, the claimant was found entitled to total compensation of Rs.6,83,826/- 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

To meet the ends of justice, the compensation is hereby reassessed keeping in view the judgment passed by Hon'ble the Supreme Court in *Raj Kumar V/s. Ajay Kumar and others 2011(2) RCR (Civil) 101* as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6,000/-p.m.
(ii)	10% future prospects	6,000+600=Rs.6,600/-
(iii)	Compensation after multiplier of 11 is applied	6,600X12X11=8,71,200/-
(iv)	Medical bills	Rs.1,55,826/-
(v)	Pain and suffering	Rs.1,00,000/-
(vi)	Attendant	Rs.1,00,000/-
(vii)	Loss of amenities in life	Rs.1,00,000/-
(viii)	Special diet	Rs.50,000/-
	TOTAL COMPENSATION AWARDED	Rs.13,77,026/-
	ENHANCED AMOUNT OF COMPENSATION	13,77,026-6,83,826=Rs.6,93,200/-

The enhanced amount of compensation of Rs.6,93,200/- 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/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

31.10.2019
Divyanshi

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