

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

**FAO No.3809 of 2013 (O&M)
Date of decision: 02.12.2019**

Balvinder

....Appellant

Versus

Bahadur Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Arun Sharma, Advocate,
for Mr. T.K. Joshi, Advocate,
for respondent No.3-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, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 08.04.2013 on account of injuries received by him in a motor vehicular accident which took place on 06.12.2010.

Brief facts of the case are that on 06.12.2010, claimant-appellant (Balvinder) was going towards H. Way Hospital, Rewari for his duty on a motorcycle bearing registration No. HR-36-L-8729. When he reached in the area of village Bhudla, a car bearing registration No.HR-26-AE-7998 being driven by respondent No.1-Bahadur Singh in a rash and negligent manner, came and struck against the motorcycle, as a result of which, claimant fell down and received serious and multiple injuries. He was taken to H.Way Hospital, Rewari, but due to serious condition, he was

21.12.2010. Thereafter, he was referred to Health Way Research and Diagnostic Hospital Private Limited, Rewari, where he remained hospitalized w.e.f. 29.01.2011 to 01.02.2011. With regard to the accident, FIR No.240 dated 26.12.2010 was registered against driver-respondent No.1. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

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-respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Balwinder-claimant (CW-6). Apart from this, claimant has also proved on record medical bills Ex.P1 to Ex.P20, certified copy of charge sheet Ex.P21, certified copy of challan Ex.P22 etc. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Medical expenditure	Rs.10,18,700/-
2.	Pain and sufferings	Rs.50,000/-
3.	Attendant charges	Rs.6000/-
4	Nutritious diet	Rs.6000/-
5	Loss of income	Rs.23,600/-
6	Disability	Rs.2,40,000/-
7	Transportation charges	Rs.5000/-
	Total	Rs.13,49,300/-

Hence, the claimant was found entitled to a total compensation of Rs.13,49,300 /- along with interest at the rate of 7% 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.

case, compensation for disability should have been granted after applying the method of income criteria.

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 regard to finding given by the Tribunal on issue No.1 to the effect that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. A perusal of the impugned award shows that claimant-appellant remained admitted in H.Way Hospital, Rewari as indoor patient from 06.12.2010 to 08.12.2010, 21.12.2010 to 28.01.2011 and 29.01.2011 to 01.02.2011. He also remained admitted in Paras Hospital, Gurgaon w.e.f. 08.12.2010 to 21.12.2010 and in Max Super Specialty Hospital (West Block), New Delhi w.e.f. 16.10.2011 to 18.10.2011 on account of the injuries suffered by him, including multiple fractures of C3 lamina, C3-6 spinous process, D3, Clavicle and left femur. Accordingly, he remained in hospitals for 28 days. As per certificate dated 25.04.2012 issued by Senior Medical Officer, Rewari, Ex.PW3/A, claimant was suffering from approximately 46% permanent disability. This certificate further shows that he was referred to the Department of Neuro Surgery, PGIMS, Rohtak for assessing the disability. Thereafter, as per certificate Ex.PW8/A, Medical Board has assessed the disability of claimant to the extent of 80%. Hence, for assessing the compensation, disability of claimant-appellant has to be taken as 80%. The functional loss of future earning capacity of appellant-Balvinder is being assessed at 80% and the compensation is being assessed by applying the method of income criteria. The accident had taken place on 06.12.2010. In this case, Ram Singh Chawri, HR Manager, H-Way Hospital, Rewari, while appearing as PW-7,

proved salary sheet of the claimant as Ex.PW7/A to Ex.PW7/J. As per these documents, claimant was getting salary of Rs.7860/- per month at the time of accident. Accordingly, income of claimant-appellant is assessed as Rs.7860/-, rounded off as Rs.8000/- per month. In this income, 40% addition is made on account of future prospects. By doing so, total income of claimant comes to Rs.11,200/- (8000 + 3200). Since, the claimant was 23 years of age at the time of accident, multiplier of 18 has to be applied. After applying the multiplier of 18, loss of income due to permanent disability comes to Rs.11,200 x 80/100 x 12 x 18 = Rs.19,35,360/-. Hence, keeping in view the peculiar circumstances, in which the injured-claimant had been put, the compensation is hereby re-assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1	Medical expenditure	Rs.10,18,700/-
2	Pain and sufferings	Rs.1,00,000/-
3	Compensation for loss of earnings on account of permanent disability.	Rs.19,35,360/-
4	Attendant charges	Rs.15,000/-
5	Nutritious diet	Rs.15,000/-
6	Loss of income during the period he remained in hospital	Rs.23,600/-
7	Transportation charges	Rs.15,000/-
8	Loss of Amenities in life	Rs.1,00,000/-
9	TOTAL COMPENSATION AWARDED	Rs.32,22,660/-
	Enhanced amount of compensation	Rs.32,22,660 – 13,49,300 = Rs.18,73,360/-

The enhanced amount of compensation of **Rs.18,73,360/-** 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

02.12.2019
ajp

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