

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2498-2015
Date of decision: 25.07.2019

Govind

...Appellant

V/s.

Sunil Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. S.P. Chahar, Advocate for the appellant.

Mr. R.K. Bashamboo, Advocate for respondent No. 3.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 06.12.2014 whereby compensation of Rs.4,10,000/- has been awarded on account of injuries suffered by him on 10.10.2012 in a road accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.10.2012 at about 10.00 a.m., claimant-Govind was going on his motorcycle bearing registration No. DL-4SBH-5475 from Bakkargarh to Majri. When he reached in front of mixture plant near village Gubhana then a truck bearing registration No. HR-38C-9874 came from the side of mixture plant which was driven by respondent No. 1 in a rash, negligent and in a zig-zag manner, hit directly his motorcycle. As a result, claimant got grievous injury on right leg, left knee and other parts of his body. He was taken to Rao Tula Ram Hospital, Jafarpur, Delhi with the help of passerby and was further referred to Din Dayal Hospital, Delhi. He was admitted on 17.10.2012 at Mission

Hospital, Bahadurgarh and was discharged on 21.10.2012. Thereafter he took further treatment in O.P.D. at Mission Hospital, Bahadurgarh, from his village Neelwal.

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place due to rash and negligent driving of respondent No. 1 and the Tribunal returned finding in favour of the claimant. This finding was rightly given keeping in view an FIR No. 435 dated 13.10.2012 was registered against respondent No.1 in Police Station Sadar Bahadurgarh (Ex.P1). The disability certificate (Ex.P58) shows 35% disability due to the injuries sustained on right leg, right forearm and wrist joint and this certificate was duly proved by PW 3 Dr.S.S. Chauhan, Medical Officer, Government Hospital, Jhajjar. Taking this disability into account, the Tribunal has granted compensation of Rs.1,75,000/- (Rs.5,000X35) for injuries after applying Rs.5,000/- per percentage, Rs.5,000 for special diet, Rs.10,000 for pain and suffering, Rs.1,00,000 for medical treatment expenses, Rs.25,000 for attendant expenses, Rs.15,000 for transportation expenses and Rs.80,000/- for loss of income as the claimant was working as Raj Mistri. The claimant was found entitled to total compensation of Rs.4,10,000/- along with interest @ 8% 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.

Learned counsel for the appellant states that the compensation granted under the head of disability is on the lower side. The disability certificate (Ex.P58) is not disputed by the parties and the same has been duly proved by PW 3 Dr. S.S. Chauhan, Medical Officer, Government Hospital, Jhajjar. The claimant has suffered 35% disability due to the injuries sustained on right leg, right forearm and wrist joint, the multiplier system should have been applied for loss of income.

The claimant was 42 years of age and working as Raj Mistri and his income has been assessed as Rs.8,000/- p.m. by the Tribunal. Keeping in view the nature of injuries suffered by the claimant, the disability has to be taken as 35% qua the whole body. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed 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)	Income	8,000 p.m. X 12=96,000 p.a.
(ii)	25% of (i) above to be added as future prospects	96,000+24,000=1,20,000
(iii)	Annual loss of income to the extent of 35% disability after applying multiplier of 14	1,20,000 X 35% X 14=5,88,000/-
(iv)	Special diet	10,000/-
(v)	Pain and suffering	30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 6,28,000/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.6,28,000-4,10,000= Rs.2,18,000/-

The enhanced amount of compensation of **Rs.2,18,000/-** 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

25.07.2019

Divyanshi

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