

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-1504-2016
Date of decision: 23.07.2019

Deepika

...Appellant

V/s.

The Janki Cooperative Transport Society Ltd.,
Bhadani and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Anil Rathee, Advocate for the appellant.

Mr. S.S. Mor, Advocate for respondents no. 1 and 2.

Mr. Suman Jain, Advocate for respondent no. 3.

Ms. Vandana Malhotra, Advocate for respondent no. 6.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 30.10.2015 whereby in MACT no. 162 dated 17.11.2011, she has been awarded compensation of Rs.6,40,221/- on account of injuries suffered by her on 06.08.2011 in a road accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.08.2011, claimant-Deepika was on her way from Jhajjar to Bahadurgarh in private bus bearing no. HR-63-A/3477. Anil Kumar was driving the bus rashly and negligently. At about 12:00 p.m., when the bus reached near DPS school, Nuna Majra, Rajesh Rathee alongwith Nand Kishore came on I-20 car bearing registration no. HR-13-F/1214 from Bahadurgarh side. On account of rash

and negligent driving by Anil Kumar, the driver of the bus, it hit the car. As a result of which, claimant has suffered multiple grievous injuries. Nand Kishore lodged FIR no. 331 dated 06.08.2011 under Sections 279, 337, 338 and 427 IPC at Police Station, Sadar, Bahadurgarh.

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. 2 who was driving the offending bus. This finding has been rightly given keeping in view FIR no. 331 dated 06.08.2011 under Sections 279, 337, 338 and 427 IPC was registered against the driver and challan was also present (Ex.P17). Respondents no. 1 to 3 have been jointly held liable to make compensation.

Dr. Kumud Sharma (PW8) proved her disability certificate (EX. P38) qua permanent disability as 35% on account of bilateral fracture public ramie with disruption of public diastases with difficulty in climbing stairs. Claimant is a housewife. Keeping in view her age as 25 years, disability to the extent of 25% and loss of pregnancy, the Tribunal has assessed the compensation as under:-

Sr. no.	Head of Compensation	Amount
(i)	On account of expenses on medicines	Rs.1,45,221/-
(ii)	On account of pain and suffering	Rs.25,000/-
(iii)	On account of nourishing food, attendant, transportation etc.	Rs.20,000/-
(iv)	On account of loss of pregnancy of 21 weeks	Rs.2,00,000/-
(v)	On account of loss of amenity for 35% permanent disability	Rs.50,000/-
(vi)	On account of permanent disability at 35% for bilateral fracture public ramie with disruption of pubic diastases with difficulty in climbing stairs	Rs.2,00,000/-
(vii)	TOTAL	Rs. 6,40,221/-

The claimant was found entitled to total compensation of Rs.6,40,221/- along with interest @ 6% 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. It stands established that the claimant has suffered 35% disability as a result of the accident. The claimant is a housewife. So her income has to be taken as Rs.6,000/- p.m. as per the minimum wages prevalent in Haryana in the year 2011. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby re-assessed 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	6,000 p.m. X 12=72,000 p.a.
(ii)	40% of (i) above to be added as future prospects	72,000+28,800=1,00,800
(iii)	On account of permanent disability at 35% after applying multiplier of 18	1,00,800 X 35% X 18=6,35,040/-
(iv)	Medical expenses	1,45,221/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 7,80,261/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,80,261-6,40,221= Rs.1,40,040/-

The enhanced amount of compensation of Rs.1,40,040/- 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

23.07.2019
Divyanshi

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