

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-366-2015 (O&M)
Date of decision: 13.08.2019

Ran Singh

...Appellant

V/s.

Vinod Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 27.08.2014 whereby he has been awarded compensation of Rs.3,64,367/- alongwith interest @ 7 ½ p.a. from the date of filing of the petition till realization on account of injuries suffered by him in a road accident which took place on 11.08.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that Ran Singh and Naresh Kumar were coming to their village Jasanias from Bhadra on their motorcycle bearing No. HR-26-AC-3778 being driven by Naresh Kumar and Ran Singh was pillion rider and when they reached two kilometers ahead of village Gandhi Bari towards Sirsa side, a driver of JCB machine No. RJ-10/EA-0144 was working on the road. The said machine was being driven by its driver in a rash and negligent manner at a very high speed. Naresh Kumar took the bike to extreme left side of the road but despite that the driver of

the JCB machine struck into the motorcycle, as a result of which both the occupants of the motorcycle fell on the left side of the road and received multiple injuries on their persons. Both the injured were shifted to the hospital of Dr. Y.K.Chaudhary, Sirsa on 11.08.2012 and they remained there upto 12.08.2012. Ran Singh was got admitted in CMC Hospital, Hisar. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

A perusal of the award shows that finding on issue no. 1 has been rightly given in favour of the claimant as FIR No. 206 dated 12.08.2012 (Ex.P126) under Sections 279 and 337 IPC was lodged against respondent No. 1-Vinod Singh. Ex.P2 is a copy of report under Section 173 Cr.P.C.

With respect to injuries, the claimant has examined PW1 Dr. Y.K. Chaudhary, Orthopedic Surgeon and PW3 Dr. Raj Kumar Ghayal, who was member of the Board and he found that Ran Singh was suffering temporary disability to the extent of 15%. However PW6 Dr. Rahul Kaswan, Sr. Resident Department of Ortho PGIMS Rohtak, who was also member of the Board alongwith Dr. Pardeep Kamboj and Dr. Nitin Gupta, proved the disability to the extent of 30% as permanent in nature. He proved the disability certificate (Ex.PW6/A). Keeping in view the deposition of PW3 Dr. Raj Kumar Ghayal and PW6 Dr. Rahul Kaswan, the Tribunal awarded Rs.60,000/- on account of disability suffered by the claimant. The compensation with respect to medical treatment is as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Compensation for 30% disability	Rs.60,000/-
(ii)	Bills Ex.P68 to Ex.P102 and Ex.P108 and Ex.P109	Rs.2,15,966/-
(iii)	Ex.P110 to Ex.P121	9,816
(iv)	Ambulance charges	22,000
(v)	Ex.P1, Ex.P2 to Ex.P9 regarding medicine bills	16,635/-
(vi)	For rest, attendant charges and transportation charges	20,000/-
(vii)	Pain and suffering	20,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.3,64,367/-

The Tribunal had made error in calculation and Rs.3,64,367/- had been written instead of Rs.3,64,417/- and at this stage, this amount cannot be corrected.

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

The matter was sent to Lok Adalat and now the case is now returned. For the purpose of re-assessment of the compensation, the disability certificate (Ex.PW6/A) given by PW6 Dr. Rahul Kaswan, Sr. Resident Department of Ortho PGIMS Rohtak, has to be examined. A perusal of disability certificate (Ex.PW6/A) shows that claimant has suffered 30% permanent disability on account of shortening of right lower limb alongwith restriction of moves at right knee and hip joint with non-union of fracture trochanter right hip with inability to bear full weight on right lower limb with difficulty in walking and sitting cross leg and squatting.

The insurance company has not disputed disability certificate. Hence, the compensation ought to have been assessed by applying multiplier method. The claimant-Ran Singh was 50 years of age on the date of accident i.e. 11.08.2012 and the minimum wages prevalent in

Haryana in the year 2012 was Rs.6,000/- p.m. The compensation is hereby 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.
(ii)	10% of (i) above to be added as future prospects	6,000+600=6,600X12=79,200 p.a.
(iii)	Compensation for 30% permanent disability after applying multiplier of 13	79,200X13X30%=3,08,880/-
(iv)	Bills Ex.P68 to Ex.P102 and Ex.P108 and Ex.P109	Rs.2,15,966/-
(v)	Ex.P110 to Ex.P121	9,816/-
(vi)	Ambulance/transportation charges	22,000/-
(vii)	Ex.P1, Ex.P2 to Ex.P9 regarding medicine bills	16,635/-
(viii)	Special diet and attendant	Rs.50,000/-
(ix)	Pain and suffering	Rs.1,00,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.7,23,297/-
(x)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,23,297-3,64,367/- =3,58,930/-

The enhanced amount of compensation of **Rs.3,58,930/-** 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

13.08.2019
Divyanshi

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