

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

**FAO No.6064 of 2014 (O&M)
Date of decision: 27.09.2019**

Raspinder Singh

....Appellant

Versus

Smt. Sushma Devi and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.C. Gupta, Advocate,
for the appellant.

Ms. Mona Goyal, Advocate,
for Mr. Ravish Bansal, Advocate,
for respondent Nos.2 and 3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 10.03.2014, on account of injuries received by him in a motor vehicular accident which took place on 22.07.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 22.07.2010, Vipin Kumar (since deceased) along with Vinod Kampani and Raspinder Singh-appellant (claimant), was going from Khanna to Nawanshahar in a Scorpio vehicle bearing registration No.HR-01-V-0084. The said vehicle was being driven

following the Scorpio in his Indica car. At about 1.30 P.M., when the said Scorpio vehicle reached near village Hial, District Nawanshahar, a truck bearing registration No. PB-10-AC-9883 being driven by Om Parkash (husband and father of respondent Nos.1 to 3) in a rash and negligent manner, came from the opposite side and struck against the Scorpio vehicle, as a result of which, all the occupants of said vehicle received injuries. Ritesh Rana and Hardeep Singh, with the help of other people, pulled all the injured persons from Scorpio vehicle and took them to Raja Hospital, Nawanshahar, but Vipin Kumar succumbed to the injuries on the way to hospital. With regard to the incident, FIR No.67 dated 22.07.2010, under Sections 304-A/279/337/338/427 IPC was registered at Police Station, Sadar, SBS Nagar (Nawanshahar) against the driver of offending vehicle on the statement of Ritesh Rana. In this accident, present claimant-Raspinder Singh had suffered multiple injuries, including fracture of upper end of tibia, neck, femur etc. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Raspinder Singh-claimant (PW-6) and other witnesses. Apart from this, claimant has also proved on record FIR Ex.P83, report under Section 173 Cr.P.C. Ex.P86 and postmortem report of deceased-Vipin Kumar Ex.P84. Ultimately, the claim petition was allowed

and the compensation was assessed as under:-

Sr. No.	Heads	Amount
1	Compensation on account of medical expenses	Rs.3,33,308/-
2	Pain and sufferings and disability	Rs.50,000/-
3	Nutritious diet	Rs.24,000/-
4	Attendant charges	Rs.24,000/-
5	Transportation charges	Rs.10,000/-
	Total	Rs.4,41,308/-

The claimant was found entitled to a total compensation of Rs.4,41,308/- along with interest at the rate of 7.5% per annum from the date of filing of 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. Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle by its driver. A perusal of the impugned award shows that claimant had suffered disability to the extent of 10%, which was proved by Dr. Sunil Kumar (PW-3), who stated that this was a temporary disability and claimant can perform his supervisory job while standing as well as sitting. This disability was likely to improve. Learned counsel for the appellant states that initially, Rospinder Singh-claimant was admitted to IVY Hospital, Sector 71, Mohali on 24.07.2010 and was discharged on 28.07.2010. He was again admitted in the hospital on 22.09.2011 for one

day in order to remove the screws and thereafter, was discharged. Subsequently, he was against admitted in the hospital on 05.03.2012 and was operated upon for replacement of left hip joint with artificial hip join and was discharged on 10.03.2012.

The claimant has already been awarded compensation on account of medical expenses. However, keeping in view that he has undergone the above said surgeries, the compensation can be enhanced. So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Medical expenses	Rs.3,33,308/-
(ii)	Pain and sufferings/disability	Rs.1,00,000/-
(iii)	Nutritious diet	Rs.30,000/-
(iv)	Attendant charges	Rs.30,000/-
(v)	Transportation charges	Rs.15,000/-
(vi)	Loss of earning	Rs.1,00,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.6,08,308/-
(viii)	Enhanced amount of compensation	Rs.6,08,308 – 4,41,308= Rs.1,67,000/-

The enhanced amount of compensation of **Rs.1,67,000/-** 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 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

27.09.2019
ajp

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