

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

**FAO-578-2015
Date of decision: 23.07.2019**

Thakur Lal**...Appellant**

V/s.

Trilok Chand Jain and others**...Respondents****CORAM: HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Mr. Ashish Gupta, Advocate for the appellant.

Mr. B.S. Taunque, Advocate for respondent No. 3.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 05.12.2014 whereby compensation of Rs.3,05,000/- has been awarded on account of injuries suffered by him on 31.08.2013 in a road accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 31.08.2013, claimant-Thakur Lal alongwith his brother was going on foot to his tailoring shop. At about 7:30 a.m. when they reached near Nadipur turning in the area of village Madapur, a motorcycle bearing registration No. HR-28D-8814, driven in a rash and negligent manner by respondent No. 2, came from the side of Ferozepur Jhirka and hit the claimant after coming on kaccha portion of the road. As a result, the claimant sustained fracture on his right leg and ribs and was taken to CHC Ferozepur Jhirka, then to G. H. Mandikhera and thereafter he was shifted to Banga Bone Hospital.

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 on the basis of FIR (Ex.P3), charge-sheet (Ex.C1), MLR (Ex.P1) and copy of challan (Ex.P4) etc. The compensation has been assessed by the Tribunal keeping in view the disability certificate (Ex.P32) and discharge certificate (Ex.P6) of the claimant. As per the disability certificate (Ex.P32), the claimant has suffered 42.5% permanent disability on account of moderate to severe restriction of movements at right knee and right ankle with quadriceps weakness following segmenting fracture of both bone right leg with shortening of right lower limb by 1 ½". Dr. Vikram Singh (PW5), RMO, Al Afia Civil Hospital Mandikhera has proved this disability certificate (Ex.P32). Taking this disability into account, the functional disability has been assessed as 21% for calculating future loss of earning. The Tribunal has assessed the monthly income of the claimant as Rs.5,000/- per month and his proportionate monthly income, to the extent of 21% functional disability, came to Rs. 1,050/-. Annual loss of income came to Rs.12,600/- (1,050 X 12) and by taking age of the claimant as 30 years, multiplier of 17 applied (12,600X17=2,14,200). This amount has been assessed as loss of future earning and the compensation assessed by the Tribunal on other heads is as under:-

Sr. No.	Head of Compensation	Amount
(i)	Medical expenses	Rs.35,575/-
(ii)	Expenses for transportation	Rs.10,000/-
(iii)	Expenses for special diet	Rs.10,000/-
(iv)	Loss of earning during the period of treatment/admission	Rs.15,000/-

(v)	Loss of future prospects on account of 42.5% permanent disability	Rs.2,14,200/-
(vi)	Pain, suffering and trauma as a consequence of grievous injuries	Rs.20,000/-
(vii)	TOTAL	Rs. 3,04,775/- rounded off as Rs.3,05,000/-

The claimant was found entitled to total compensation of Rs.3,05,000/- along with interest @ 7.5% 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. The claimant was working in the tailoring shop. So his income has to be taken as semi skilled labourer as per the minimum wages prevalent in Punjab in the year 2013 which is Rs.6,000/- p.m. 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	6000 p.m. X 12=72,000
(ii)	40% of (i) above to be added as future prospects	72,000+28,800=1,00,800
(iii)	Annual loss of income to the extent of 21% functional disability after applying multiplier of 17	1,00,800 X 21% X 17=3,59,856/-
(iv)	Transportation	15,000/-
(v)	Special diet	15,000/-
(vi)	Medical expenses	35,575/-

(vii)	Pain and suffering	50,000/-
(viii)	Loss of earning during the period of treatment/admission	20,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 4,95,431/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.4,95,431-305,000= Rs.1,90,431/-

The enhanced amount of compensation of **Rs.1,90,431/-** 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