

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

**FAO No.7617 of 2014 (O&M)
Date of decision: 29.10.2019**

Pardeep Kumar

....Appellant

Versus

Sanjay and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mukesh Yadav, Advocate,
for the appellant.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 24.03.2014, on account of injuries received by him in a motor vehicular accident which took place on 30.06.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 30.06.2012, claimant-appellant (Pardeep Kumar) along with one Rajbir was going on a motorcycle, which was being driven by claimant himself. At about 3.30 P.M., when they reached near Seka School, in the meantime, a Pick-up bearing registration No.HR-61-A-3042, being driven by Sanjay-respondent No.1 in a rash and negligent manner, came from the opposite side and struck

against the motorcycle of claimant, as a result of which, claimant-Pardeep Kumar received serious injuries. With regard to the accident, FIR No.157 dated 04.07.2012, under Sections 279/337 IPC was registered at Police Station, Sadar, Narnaul, against the driver of offending vehicle i.e. respondent No.1. 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 Pardeep Kumar-claimant (PW-3) and Rajbir (PW-2), who was eye witness of the accident. Apart from this, claimant has also proved on record FIR Ex.PW4/D. Ultimately, the claim petition was allowed and the compensation was assessed as under:-

Sr. No.	Heads	Amount
1	Permanent disability (30%)	Rs.60,000/-
2	Hospitalization and medical expenses	Rs.1,32,296/-
3	Pain and suffering	Rs.20,000/-
4	Attendant charges	Rs.5000/-
5	Special diet	Rs.5000/-
6	Transportation	Rs.15,762
	Total	Rs.2,38,058/-

The claimant was found entitled to a total compensation of Rs.2,38,058/- along with interest at the rate of 9% 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 disability certificate Ex.PW1/A, issued by the Civil Surgeon, Narnaul, shows that claimant-appellant has suffered permanent disability to the extent of 30%. Learned counsel for the appellant has produced copy of disability certificate dated 26.09.2012, which shows that there is permanent disability to the extent of 30% and movement of knee joint has been reduced by 80%. This certificate is taken on record as Annexure A-1. In view of the said fact, compensation in the present case, has to be assessed by applying the multiplier method. Claimant-appellant was stated to be working as Clerk in Rajasthan Gramin Bank. In the given circumstances, income of the claimant-appellant is being taken as Rs.10,000/- per month. In this income, 40% addition is made on account of future prospects, which comes to Rs.14,000/- (10,000 + 4000). At the time of accident, claimant-appellant was aged about 24 years. Accordingly, multiplier of 18 is to be applied. After applying the multiplier of 18, compensation, on account of 30% permanent disability, comes to Rs.9,07,200/- (Rs.14,000 x 30/100 x 12 x 18). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Compensation on account of permanent disability to the extent of 30%	Rs.9,07,200/-
(ii)	Hospitalization and medical expenses	Rs.1,32,296/-
(iii)	Pain and suffering	Rs.50,000/-

(iv)	Attendant charges	Rs.10,000/-
(v)	Special Diet	Rs.10,000/-
(vi)	Transportation	Rs.15,762/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.11,25,258/-
(viii)	Enhanced amount of compensation	Rs.11,25,258 – 2,38,058 = Rs.8,87,200/-

The enhanced amount of compensation of **Rs.8,87,200/-** 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

29.10.2019

ajp

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No