

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

FAO No.6720 of 2016 (O&M)
Date of decision: 28.11.2019

Balwinder Singh

.... Appellant

versus

Brij Lal(deceased) through LR and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Yadvinder Singh Turka, Advocate
for the appellant.

Mr. Vinod Chaudhri, Advocate
for respondent No.4.

Manjari Nehru Kaul

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') on account of the injury sustained by him in a motor vehicular accident, which took place on 17.05.2014.

Brief facts of the case are that on 17.05.2014 at about 11.30 am the claimant was going on his scooter bearing registration No.PB-11-AV-2143 from his house towards Fountain Chowk, Patiala. When he reached near Polo Ground the offending vehicle i.e. Sakoda car being driven by respondent No.3 – Vicky came at a high speed in a very rash and negligent manner and struck against the scooter of the claimant as a result of which the accident occurred leading to the claimant suffering multiple injuries. Subsequently, the claimant remained admitted in various hospitals including Fortis Hospital, Mohali where he was operated upon. An FIR bearing

No.108 dated 20.05.2014 under Sections 279, 337 and 338 IPC was also registered against respondent No.3 – Vicky at Police Station Civil Lines, Patiala. Consequently, the claimant filed a claim petition before the Tribunal.

On the basis of the evidence led by the parties, the Tribunal concluded that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver i.e. respondent No.3, which resulted in the claimant suffering multiple injuries. The Tribunal awarded compensation to the tune of Rs.2,16,500/- detailed herein as under:

<i>Sr. No.</i>	<i>Heads of claim</i>	<i>Amount awarded</i>
1	On account of medical treatment/bills	Rs.16,500/-
2	On account of loss of future income	Rs.1,80,000/-
3	On account of pain and sufferings	Rs.10,000/-
4	On account of attendant charges during the period of hospitalisation and subsequent period of recovery and transport expenses	Rs.5,000/-
5	On account of Special diet/extra nourishment	Rs.5,000/-
	TOTAL	Rs.2,16,500/-

Learned counsel for the claimant has urged that in the case in hand, the Tribunal erred in applying a wrong multiplier of 5 whereas the correct multiplier as per *Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121* should have been 9 as the age of the claimant was admittedly 60 years at the time of accident.

After hearing submissions of the learned counsel for the parties and perusing the case file, there is no dispute qua the factum of accident. It is also established that the claimant suffered injuries in the said accident as a result of which he suffered disability to the extent of 30%. Since the

claimant was admittedly 60 years of age at the time of accident, an error has been committed by the Tribunal while applying the multiplier of 5, which should have been 9 as per *Sarla Verma's case(supra)*.

In my considered opinion, the ends of justice would be met if the compensation is hereby reassessed by applying the multiplier of 9. Accordingly, loss of future income is assessed to be Rs.3,000 x 12 x 9 = Rs.3,24,000/-.

In view of the above, enhanced amount of compensation works out as follows:

<i>Sr. No.</i>	<i>Heads of claim</i>	<i>Amount awarded</i>
1	On account of medical treatment/bills	Rs.16,500/-
2	On account of loss of future income	Rs.3,24,000/-
3	On account of pain and sufferings	Rs.10,000/-
4	On account of attendant charges during the period of hospitalisation and subsequent period of recovery and transport expenses	Rs.5,000/-
5	On account of Special diet/extra nourishment	Rs.5,000/-
	TOTAL	Rs.3,60,500/-

As a sequel to the above discussion, the enhanced amount of compensation to which the claimant is entitled is enhanced from Rs.2,16,500/- to Rs.3,60,500/-. The enhanced amount so awarded shall carry interest @ 9% per annum from the date of filing of claim petition till its realisation in view of the judgment of Hon'ble Supreme Court in the case of *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and others, Civil Appeal No.4528 of 2019*.

Accordingly, the award is modified and the appeal stands partly allowed in the above terms.

28.11.2019
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(Manjari Nehru Kaul)
Judge

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No