

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

**FAO No.8447 of 2015
Date of decision: 24.09.2019**

Devinder Kumar

....Appellant

Versus

Shiv Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Inderjeet Sharma, Advocate,
for the appellants.

Mr. Puneet Pali, Advocate,
for respondent Nos.1 to 3.

Mr. Pardeep Kumar, Advocate,
for respondent No.4-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, S.A.S. Nagar (Mohali) (hereinafter referred to as 'the Tribunal') vide award dated 13.10.2015 on account of injuries suffered by him in a motor vehicular accident which took place on 22.07.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 22.07.2013, at about 7.00 A.M., claimant-appellant (Devinder Kumar) had been going from Kali Mata Mandir, Kalka towards Parwanoo. When he reached near culvert of nalha, situated on Kalka Parwanoo road, a Maruti Zen car bearing No. HR-02-D-

manner, came and hit the claimant, as a result of which, he (claimant) suffered multiple and grievous injuries. The said accident was witnessed by Jagdish Singh. The injured was taken to Civil Hospital, Kalka, from where he was referred to General Hospital, Sector 6, Panchkula. Thereafter, the claimant was taken to K.D. Hospital, Ambala Cantt. on 05.08.2013. With regard to the incident, FIR under Sections 279/337/338 IPC was registered at Police Station, Kalka against respondent No.1. Consequently, the claimant-appellants 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 the offending vehicle by its driver. This finding was rightly given on the basis of deposition of claimant-Devinder Kumar (PW-1) and Jaswanti Devi (PW-2). Apart from this, claimants have also proved on record disability certificate Ex.P1, MLR Ex.P2, treatment record Ex.PW6/2 etc.

Before the accident, claimant was working as carpenter. As per disability certificate Ex.P1, claimant has suffered permanent disability to the extent of 100%. In the absence of any documentary evidence, income of claimant was assessed as Rs.8000/- per month i.e. Rs.96,000/- per annum. Claimant was 40 years of age at the time of accident. Accordingly, multiplier of 15 was applied. After applying the multiplier of 15, loss of income of claimant, due to disability, came to Rs.14,40,000/- (96,000/- x 15). In this amount, 50% addition was made on account of future prospects, which came to Rs.21,60,000/- (14,40,000 + 7,20,000/-) The compensation was assessed as under:-

Sr. No.	Heads	Amount
1	Transportation, diet charges and nutrition etc.	Rs.5000/-
2	Attendant charges	Rs.4,00,000/-
3.	Medical expenses	Rs.26,000/-
4	Pain and sufferings	Rs.5000/-
5.	Loss of earning capacity in relation to disability	Rs.21,60,000/-
	Total	Rs.25,96,000/-

Hence, the claimant was found entitled to total compensation of Rs.25,96,000/- along with interest @ 9% 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. It stands established that the claimant-appellant has received injuries as a result of the accident. There is no dispute with regard to finding given by Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver. Claimant-appellant was doing working as carpenter. Due to this accident, he has suffered disability to the extent of 100%. Income of the deceased has to be assessed as that of skilled labourer. Hence, as per minimum wages, income of the claimant is being assessed as Rs.9000/- per month. In this income, 40% addition is made on account of future prospects, which comes to Rs.12,600/- per month (9000 + 3600). Since, claimant was 40 years of age at the time of accident, multiplier of 15 is being applied. After applying the multiplier of 15, loss of earning capacity due to 100% disability, comes to Rs.22,68,000/- (12,600 x

12 x 15). Accordingly, in the peculiar facts and circumstances of the case,

to meet the ends of justice, the compensation is hereby reassessed, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Transportation, diet charges and nutrition etc.	Rs.1,00,000/-
(ii)	Attendant charges	Rs.4,00,000/-
(iii)	Medical expenses	Rs.26,000/-
(iv)	Pain and sufferings	Rs.1,00,000/-
(v)	Loss of earning capacity in relation to disability	Rs.22,68,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.28,94,000/-
(vii)	Enhanced amount of compensation	Rs.28,94,000 – 25,96,000= Rs.2,98,000/-

The enhanced amount of compensation of **Rs.2,98,000/-** 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

24.09.2019
ajp