

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

**FAO No. 4184 of 2017
Date of decision: 20.08.2019**

Meena

...Appellant

V/s.

Vinod Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. S.K. Daaria, 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 of the Tribunal dated 23.02.2017 whereby she has been awarded compensation of Rs.2,63,500/- on account of suffering 60% permanent disability in a road accident which took place on 03.09.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.09.2015, Tata Canter vehicle bearing registration No. UP-12T-1783 being driven rashly and negligently by respondent No. 2 Vajid @ Wazid hit the claimant-Meena. Due to this accident, claimant suffered serious and multiple fatal injuries in her hand, back and other vital parts of body. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of negligent driving by respondent No. 2, the driver of the offending vehicle. This finding has

been rightly given in favour of the claimant keeping in view that FIR No.540 dated 04.09.2015 under Sections 279, 337 and 338 IPC (Ex.P2) was registered and the charges were framed against respondent No. 2 on 06.05.2016.

The Tribunal had assessed compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Medicines	15,148/-
(ii)	Attendant Charges	Rs.20,000/-
(iii)	Special diet	Rs.20,000/-
(iv)	Transportation	Rs.20,000/-
(v)	Pain & Suffering	Rs.50,000/-
(vi)	Permanent Disability	Rs.1,20,000/-
(vii)	Loss of earning capacity during treatment	Rs.18,384/-
(viii)	TOTAL COMPENSATION AWARDED	Rs. 2,63,532/- rounded upto Rs.2,63,500/-

Hence, the claimant was found entitled to total compensation of Rs.2,63,500/- 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

Learned counsel for the appellant contends that the Tribunal has assessed the permanent disability as 60%. He has produced the certified copy of disability certificate (Ex.P36) which shows that permanent disability is 63% and disability has been mentioned on account of post traumatic stiffness of left hand and elbow. Complete loss of apprehension and strength in left hand with sensory loss in median N disruption with contracture of left hand and wrist with massive scarring left forearm ireskichd elbow flex on with mild to moderate pain left hand and forearm. Since the nature of the disability is permanent in nature, the compensation for disability has to be calculated by applying multiplier method. The

claimant was working as a labourer in Tightwell Fastners (Dynamic Transmission Ltd.) Dynamic Precision Tools & SPM, Delhi Highway, Gandhra, Rohtak and getting salary of Rs.6,128/- p.m.

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 has received injuries in a road accident which took place on 03.09.2015 and as per the minimum wages prevalent in Haryana, Rs.6,000/-p.m. can be taken as income of the labourer. The age of the claimant was 36 years at the time of accident. Hence, 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)	Annual Income	6,000X12=Rs.72,000/- p.a.
(ii)	Add 40% of (i) as future prospects	72,000+28,800=Rs.1,00,800/-
(iii)	Multiplier of 15 applied	1,00,800X15=Rs.15,12,000/-
(iv)	Compensation for 63% disability	Rs.15,12,000X63%=9,52,560/-
(v)	Medicines	Rs.15,148/-
(vi)	Attendant Charges	Rs.20,000/-
(vii)	Special diet	Rs.20,000/-
(viii)	Transportation	Rs.20,000/-
(ix)	Loss of earning capacity during treatment	Rs.18,384/-
(x)	Loss of amenities, happiness and enjoyment of life	Rs.1,00,000/-
(xi)	TOTAL COMPENSATION AWARDED	Rs.11,46,092/-
(xii)	ENHANCED AMOUNT OF COMPENSATION	Rs.11,46,092-2,63,500/=Rs.8,82,592/-

The enhanced amount of compensation of Rs.8,82,592/- 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

20.08.2019
Divyanshi

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