

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

**FAO No.3481 of 2018 (O&M)
Date of decision: 03.12.2019**

Balbir Singh

....Appellant

Versus

Gurvinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellant.

Mr. Sanyam Khetarpal, Advocate,
for Mr. S.S. Sidhu, 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 29.11.2017, on account of injuries received by him in a motor vehicular accident which took place on 21/22.01.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that on the intervening night of 21/22.01.2016, claimant-appellant (Balbir Singh) was going from his office to his house in Sector 52, Chandigarh on a motorcycle. At about 12:10 A.M., when he was crossing the light point of Sector 19/18, Chandigarh, a car bearing registration No.PB-01-A-3207, being driven by Gurvinder

Singh-respondent No.1 in a rash and negligent manner, came and struck against the motorcycle of claimant, as a result of which, he (claimant) fell down and received serious injuries. He was taken to PGI, Chandigarh by PCR vehicle. With regard to the accident, FIR No.09 dated 23.01.2016, under Sections 279/337 IPC was registered at Police Station, Sector 19, Chandigarh, 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 Balbir Singh-claimant (PW-1). Apart from this, claimant has also proved on record FIR Ex.P49. Ultimately, the claim petition was allowed and the compensation was assessed as under:-

Sr. No.	Heads	Amount
1	Hospitalization charges	Rs.9500/-
2	Pain and sufferings	Rs.25,000/-
3	Medical expenses	Rs.81,600/-
4	Loss of earning for 8 months	Rs.84,000/-
5	Cost of artificial limb	Rs.17,200/-
6	High protein diet	Rs.20,000/-
7	Transportation charges	Rs.10,000/-
8	Physiotherapy charges	Rs.20,000/-
9	Loss of enjoyment of life, loss of amenities and marriage prospects	Rs.3,00,000/-
	Total	Rs.5,67,340/-

The claimant was found entitled to a total compensation of

Rs.5,67,340/- along with interest at the rate of 7.5% 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.

Learned counsel for the appellant has referred to the judgments passed by Hon'ble the Supreme Court in **Sandeep Khanuja vs. Atul Dande and another**, 2017 ACJ 979; **Dinesh Singh vs. Bajaj Allianz General Insurance Co. Ltd.**, 2014 ACJ 1412 and another judgment passed by this Court in **Darshan Kumar vs. Sant Ram and others**, FAO No.1540 of 2012 (decided on 11.12.2017) to contend that compensation should have been assessed by applying the multiplier method and by taking functional disability to the extent of 70% for whole life.

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. In this case, the disability certificate Ex.P54 has been duly proved on record by Dr. Sudesh Pebam, Professor, Department of Orthopedics, PGI, Chandigarh (PW-2). This witness has deposed that the Medical Board examined patient Balbir Singh on 17.02.2017. He further stated that it was the case of Sub Trochantric Femur with below knee amputation (left), which affected the left lower limb and the disability was assessed to the extent of 70%, which was permanent in nature. After the accident, claimant-appellant remained admitted in the hospital w.e.f. 22.01.2016 to 09.02.2016 and also underwent operations. In view of the said fact, compensation in the present case, has to be assessed

by applying the multiplier method. At the time of accident, he was aged about 26 years and was working as Bar Tender in 'Whistling Duck'. Sumit Kalra, Clerk, Whistling Duck Spinning Plates Hospitality Pvt., Ltd. (PW-3) deposed that claimant-Balbir Singh was employe of their concern. He proved appointment letter of the claimant as ExP56 and copies of salary register for the month of December, 2015 and January 2016 as Ex.P57 and Ex.P58. As per Ex.P58, claimant-appellant was drawing salary of Rs.10,500/- per month. In the given circumstances, income of the claimant-appellant is being taken as Rs.10,500/- per month. In this income, 40% addition is made on account of future prospects, which comes to Rs.14,700/- (10,500 + 4200). At the time of accident, claimant-appellant was aged about 26 years. Accordingly, multiplier of 17 is to be applied. After applying the multiplier of 17, compensation, on account of 70% permanent disability, comes to Rs.20,99,160/- (Rs.14,700 x 70/100 x 12 x 17). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Hospitalization charges	Rs.9500/-
(ii)	Pain and sufferings	Rs.1,00,000/-
(iii)	Medical expenses	Rs.81,640/-
(iv)	Compensation on account of permanent disability to the extent of 70%, loss of earnings etc.	Rs.20,99,160/-
(v)	Cost of artificial limb	Rs.1,50,000/-
(vi)	High protein diet	Rs.20,000/-
(vii)	Transportation charges	Rs.10,000/-
(viii)	Physiotherapy charges	Rs.20,000/-
(ix)	Loss of enjoyment of life, loss of amenities and marriage prospects.	Rs.3,00,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.27,90,300/-

(xi)	Enhanced amount of compensation	Rs.27,90,300 – 5,67,340 = Rs.22,22,960/-
------	---------------------------------	---

The enhanced amount of compensation of **Rs.22,22,960/-** 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

03.12.2019
ajp

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