

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-573-2018 (O&M)

Date of decision:30.09.2019

Karamveer

...Appellant

V/s.

Ashwani Pathaniya and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Chirag Wadhwa, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

CM-1719-CII-2018

For the reasons mentioned in the application, the same is allowed and the delay of 21 days in refiling the appeal is condoned.

FAO-573-2018

The claimant has come up in appeal against the award of the Tribunal dated 21.04.2017 whereby he has been awarded compensation of Rs.3,77,000/- on account of injuries suffered by him in a road accident which took place on 09.03.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.03.2013 claimant alongwith Vikram Singh, Ram Dhari, Parveen Kumar, Gogi and Dayaram left Karnal for Shivpuri, Madhya Pradesh, on their vehicle i.e. harvester (wheat cutting machine) bearing registration No. HR-05T-7329, which was being driven by Ram Dhari. When they reached near River Bridge, District Shivpuri, at about 2.00/3.00 p.m., in the meantime, offending vehicle being

driven by respondent No. 1 Ashwani Pathaniya in rash and negligent manner and at fast speed came from opposite direction and struck against above said harvester, as a result of which claimant had received multiple injuries including grievous one on his person. The injured-claimant was taken to Sahara Hospital, Vasant Vihar, Gwalior, where he was operated in respect of injuries and finally in Haryana Nursing Home, Karnal, he was operated thrice whereby a rod was inserted in his right leg. 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 the driver of the offending vehicle. This finding has been rightly given in favour of the claimant keeping in view that FIR No. 31 dated 09.03.2013 under Sections 279 and 337 IPC was registered at Police Station, Subhash Pura District Shivpuri, Madhya Pradesh (Ex.P-116) against the driver/respondent No. 1.

The Tribunal had assessed compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Loss of income for 9 months	Rs.72,000/-
(ii)	Medical bills	Rs.2,04,817/-
(iii)	Special diet	Rs.20,000/-
(iv)	Transportation	Rs.15,000/-
(v)	Attendant	Rs.15,000/-
(vi)	Pain and suffering and loss of enjoyment of life	Rs.50,000/-
	TOTAL COMPENSATION AWARDED	Rs. 3,76,817/- rounded off to Rs.3,77,000/-

Hence, the claimant was found entitled to total compensation of Rs.3,77,000/- 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 has suffered injuries as a result of the accident. The age of the claimant was 27 years at the time of accident and the Tribunal had assessed his income as Rs.8,000/- p.m. As per the testimony of PW-5 Dr. Vinod Kumar, who proved the disability certificate Ex.PW5/A, the claimant had suffered disability to the extent of 40% qua particular limb and 20% qua whole body. Hence the compensation for disability has to be calculated after applying multiplier method keeping in view the judgment of Supreme Court passed in *Raj Kumar V/s. Ajay Kumar and others* 2011(2) RCR (Civil) 101.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of 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)	Income	Rs.8,000 p.m.
(ii)	40% of (i) above to be added as future prospects	8,000+3,200=Rs.11,200/-
(iii)	Compensation after multiplier of 17 applied	11,200X12X17=Rs.22,84,800/-
(iv)	Compensation for 20% disability	22,84,800X20%=Rs.4,56,960/-
(v)	Loss of income for 9 months	Rs.72,000/-
(vi)	Medical bills	Rs.2,04,817/-
(vii)	Special diet	Rs.20,000/-
(viii)	Transportation	Rs.15,000/-
(ix)	Attendant	Rs.15,000/-
(x)	Pain and suffering and loss of enjoyment of life	Rs.50,000/-

	TOTAL COMPENSATION AWARDED	Rs.8,33,777/-
	ENHANCED AMOUNT OF COMPENSATION	Rs.8,33,777-3,77,000 = Rs.4,56,777/- rounded upto Rs.4,57,000/-

The enhanced amount of compensation of **Rs.4,57,000/-** 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 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

30.09.2019
Divyanshi

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