

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

Date of Decision:12.2.2020

FAO No.8210-2015

Manish ...Appellant

Versus

Brahm Prakash and another ...Respondents

FAO No.8338-2015

Nakul Dev ...Appellant

Versus

Brahm Prakash and another ...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Sanjay Vij, Advocate
for the appellant(s)

Mr.P.H.S.Pannu, Advocate
for respondent No.2

RAJIV NARAIN RAINA, J. (ORAL):

1. This order disposes of two appeals bearing case number FAO Nos.8210 and 8338 of 2015, arising out of the common award dated 14.8.2015 passed by the Motor Accident Claims Tribunal, Gurgaon (for short, "MACT").

2. Learned counsel submits that the MACT erred in its award dated 14.8.2015 in awarding compensation for major physical crisis resulting from an injury suffered by the appellant-Nakul Dev in a motor accident in a sum of only Rs.95,000/- besides the actual medical expenditure incurred. In the accompanying second claim petition appellant-

Manish was awarded Rs.1,38,200/- besides the actual medical expenses.

The Tribunal awarded the compensation to appellant Nakul Dev tabulated as under:

Pecuniary damages	
1.Loss of Income	45,000/-
2.Transportation Charges	10,000/-
3.Attendant Charges and Special Diet	Nil
4. Medical expenses	7,33,844/-
Non Pecuniary Damages	
5.Pain and Suffering	40,000/-
6.Loss of amenities of life	Nil
7.Loss of prospects of marriage	Nil
Total+ 8,28,844 (say Rs.8,28,900/-)	

3. The Tribunal awarded compensation to appellant Manish under different pecuniary and non-pecuniary heads as under:

Pecuniary damages	
1.Loss of Income	88,200/-
2.Transportation Charges	10,000/-
3.Attendant Charges and Special Diet	Nil
4. Medical expenses	10,23,903/-
Non Pecuniary Damages	
5.Pain and Suffering	40,000/-
6.Loss of amenities of life	Nil
7.Loss of prospects of marriage	Nil
Total- 11,62,103/- (say Rs.11,62,100/-)	

4. In contrast, what has been awarded as compensation, the appellant-Nakul Dev sustained multiple grievous and life threatening injuries on his head, forehead, chest, stomach, left eye and both legs which resulted in permanent disablement. The appellant-Manish sustained multiple grievous and life threatening head injury with left frontal depressed fracture with underlying brain contusion, fracture of both bones of right leg, injuries on his left eye, chest, which have resulted in permanent disablement.

5. Learned counsel submits that there is no discussion regarding the medical treatment, loss of earning capacity, loss of enjoyment of life, prospects of marriage and functional disability, residual effects of the injury in the future and a rather slipshod job has been done in a casual and routine matter. It is difficult to make any sense of the award. It is a common award involving the same motor accident. The factum of accident is not disputed. The liability is not disputed. The driver held a valid licence. The validity of the driving licence was not disputed by the respondents.

6. The actual medical expenditure awarded is on the lower side than claimed to which may be added past and future expenses post accident. The actual medical expenditure be re-assessed after making a thorough calculation of the sums paid on the medical bills during the period of medical treatment of both the injured claimants.

7. In the light of the above facts and circumstances the award is found lacking in coherence in its assessment of compensation. Therefore, I am constrained to quash the award dated 14.8.2015 and remit the matter back to the Tribunal to allow parties to lead further evidence on the medical condition and subsequent residual effects of disability resulting from injuries suffered in the accident. Upon consideration of that material brought on record, the fresh award be passed in accordance with law by keeping in mind the concepts and principles of determination of compensation in injury cases and the heads under which it can be assessed as indicated in the judgements of the Supreme Court in “Raj Kumar v. Ajay Kumar”, (2011) 1 SCC 343; K.Suresh v. New India Assurance Company Ltd., (2012) 12 SCC 274, Kajal v. Jagdish Chand (SCI), CA 735 of 2020 pronounced on 5.2.2020 and other precedents for the Tribunal to research

and apply to the facts of the case by carefully re-assessing under each of the permissible pecuniary and non-pecuniary heads of compensation. The Tribunal must remain guided by the tables in *Raj Kumar* and *Kajal* cases (Supra) and follow that pattern.

8. Costs will follow the result on remand as they will mitigate hardship of further proceedings and the expenses, time and energy likely to be incurred by the claimants in pursuit of just compensation which has been assessed on the lower side by the impugned award. These are assessed at Rs.50,000/- in each of the two appeals to be paid by the respondent-Insurance company to the claimants on the first date of appearance before the Tribunal.

9. All the issues are kept open for fresh determination of just and adequate assessment of compensation in accordance with law stated in case law.

10. The appeals are partly allowed by remand.

11. The parties are directed to appear in remand before the learned Motor Accident Claims Tribunal, Gurugram on 16.3.2020.

February 12, 2020
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes
Yes/No