

101-2

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

(1)

FAO No.272 of 1995
Date of Decision: 16.01.2023

Parwari

.....Appellant.

Versus

Sarwan Singh and others

.....Respondents.

(2)

FAO No.273 of 1995

Shokat Ali

.....Appellant.

Versus

Sarwan Singh and others

.....Respondents.

(3)

FAO No.274 of 1995

Kura Ram

.....Appellant.

Versus

Sarwan Singh and others

.....Respondents.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Kapish Singla, Advocate, appearing for
 Mr. Ashit Malik, Advocate
 for the appellant(s).

Service of notice upon respondents No.1 and 4
has been dispensed with vide the order dated 09.01.2023.

Mr. D.S. Sobti, Advocate
for respondent No.2.

Mr. Vikas Mohan Gupta, Advocate
for respondent No.3-United India Insurance Company.

Mr. Pardeep Goyal, Advocate
for respondent No.5-New India Assurance Company.

MEENAKSHI I. MEHTA, J.

All the three above-captioned appeals are being taken up together for discussion and adjudication as these have arisen out of the common Award passed by learned Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') on 09.08.1994 whereby the claim petitions filed by the afore-named appellants-claimants (here-in-after to be referred as 'the claimants') and one Nafe Singh, have been decided.

2. As per the brief factual-matrix culminating in the filing of the present appeals, on 05.12.1991, all the above-said claimants, along-with Nafe Singh and some other persons, were going from Madhuban to Panipat in a three-wheeler bearing registration No.HR-05-3023, which was being driven by respondent No.4. In the meantime, a Car having registration No. PB-10B-0956 (for short 'the offending vehicle') came from the opposite direction and the same was being driven by respondent No.1 in a rash and negligent manner and it collided with the three-wheeler. The claimants and said Nafe Singh sustained injuries in this accident and they filed separate petitions against the respondents for claiming compensation from them on this score.

3. Respondents No.1 and 2 filed their joint written statement and respondents No.3 and 5-insurance companies filed their separate written statements whereas respondent No.4 opted that the written statement filed

by respondent No.5 be also treated as such on his behalf. The Tribunal consolidated all the four claim petitions and then, it put the parties to the trial by framing the issues. After appreciating and evaluating the evidence as led by the parties on the record and hearing their respective learned counsel, the Tribunal passed the impugned Award, granting compensation to the tune of Rs.75,000/-, Rs.15,000/- and Rs.75,000/- to claimants Parwari, Shokat Ali, Kura Ram respectively and fastening the liability upon respondent No.3-insurance company to pay the same along-with interest @ 12% per annum from the respective dates of the filing of the claim petitions till the recovery thereof.

4. Feeling aggrieved and dis-satisfied with the impugned Award, the claimants have preferred the instant appeals for seeking the enhancement of the said amounts of compensation as awarded to them.

5. I have heard learned counsel for the claimants as well as learned counsels for respondents No.2, 3 and 5 in all these appeals and would, now, advert to the discussion on the merits of each appeal and to decide the same separately.

FAO No.272 of 1995 (Appellant-Claimant Parwari)

6. The Tribunal has awarded the compensation of Rs.75,000/-, in lump-sum, to the above-named claimant. In Para No.16 in the impugned Award, the Tribunal has mentioned that the Medical Board had assessed the disability of the said claimant as 50% and PW3 Dr. R.S. Dahiya had deposed that the afore-mentioned disability was not likely to decrease with the passage of time.

7. Keeping in view the above-discussed extent of her disability, claimant Parwari is awarded compensation to the tune of Rs.75,000/- for the same and besides this amount, she is also granted a sum of Rs.15,000/- for the pain and suffering undergone by her due to the injuries sustained in the said accident and another amount of Rs.10,000/- towards the expenses on her medical treatment and a sum of Rs.10,000/- for the special-diet and transportation etc. The total amount of compensation, when so calculated, comes out to be $\text{Rs.}75,000 + 15,000 + 10,000 + 10,000 = \text{Rs.}1,10,000/-$. The net enhanced amount of compensation, thus arrived, would be $\text{Rs.}1,10,000 - 75,000 = \text{Rs.}35,000/-$.

FAO No.273 of 1995 (Appellant-Claimant Shokat Ali)

8. The afore-named claimant has been granted compensation of Rs.15,000/-. In Para No.13 in the impugned Award, the Tribunal has categorically mentioned that PW6 Dr. P.K. Bhatia had deposed that this claimant had suffered the permanent disability to the extent of 04% and the above-said disability would not have any effect on his earning capacity.

9. However, keeping in view the fact that besides incurring the expenditure on his treatment and suffering the afore-assessed disability, the claimant must have incurred the expenses on his special diet, transportation etc, he is awarded the compensation of Rs.5,000/- over and above the sum of Rs.15,000/- as already awarded to him by the Tribunal as compensation.

FAO No.274 of 1995 (Appellant-Claimant Kura Ram)

10. The Tribunal has awarded compensation of Rs.75,000/- to the above-named claimant. It has specifically been observed in Para No.14 in

the impugned Award that the said claimant had suffered the fracture on his both legs and the afore-said PW6 had deposed that his disability was assessed to be 70% which could be cured to the extent of 08 to 10% with the passage of time and his permanent disability could be about 40%- 50%.

11. In view of the above-discussed facts and circumstances, the said claimant is awarded compensation of Rs.75,000/- for the permanent disability suffered by him. He shall also be entitled to an amount of Rs.25,000/- for the pain and suffering undergone by him due to the injuries suffered in the said accident and is awarded another sum of Rs.20,000/- towards the expenditure incurred on his medicines and treatment and the amount of Rs.20,000/- for transportation and special-diet charges etc. as well. The total amount of compensation, so arrived, would be $\text{Rs.75,000} + \text{Rs.25,000} + \text{Rs.20,000} + \text{Rs.20,000} = \text{Rs.1,40,000/-}$. Thus, the net enhanced compensation amount comes out to be $\text{Rs.1,40,000} - \text{Rs.75,000} = \text{Rs.65,000/-}$.

Conclusion

12. As a sequel to the fore-going discussion, all the three appeals in hand are hereby allowed to the effect that appellant-claimant Parwari in **FAO No.272 of 1995** shall be entitled to the net enhanced compensation of **Rs.35,000/-** and appellant-claimant Shokat Ali in **FAO No.273 of 1995** is awarded net enhanced compensation amounting to **Rs.5,000/-** whereas appellant-claimant Kura Ram in **FAO No.274 of 1995** is granted the net enhanced compensation of **Rs.65,000/-**, over and above the amounts of compensation as already awarded to them by the Tribunal and the said enhanced amounts shall carry the interest @ 7.5% per annum from the

respective dates of the filing of the claim petitions till the actual realization and shall be payable to the claimants in the same terms as mentioned in the impugned Award.

January 16, 2023
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No