

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

FAO No. 8716 of 2015

DATE OF DECISION :- March 15, 2023

Amarjit Singh

...Appellant

Versus

Nirmal Shah and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

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

Mr. A.K. Goyal, Advocate for respondent No. 3.

Briefly stated the facts of the case are that as a result of suffering injuries in a motor vehicular accident, which took place on 30.12.2012 at about 5.00 P.M in the area of near Kalsani Chowk within jurisdiction of police station Shahbad, statedly on account of rash and negligent driving of Mahindra Bolero bearing registration No. HR-99-NT(T)-1057 by respondent No.1 Nirmal Shah, such injured Amarjit Singh, aged about 45 years had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Nirmal Shah, driver, Masita Ram, owner and New India Assurance Company Limited, Mohali, insurer of Mahindra Bolero (hereafter referred to as the offending vehicle).

After contest the claim petition was accepted by Motor Accident Claims Tribunal, Mohali (hereinafter referred to as 'the Tribunal') and vide Award dated 17.3.2015 compensation of Rs.3,45,274/- rounded to 3,46,000/- along with interest at the rate of 9% per annum from

the date of filing of claim petition till actual realization besides costs of the petition was awarded to the petitioner claimant payable by all the three respondents jointly and severally.

Finding the compensation so awarded to be on lower side, the petitioner claimant has approached this Court by way of filing an appeal, notice of which was given to respondents, however, only respondent No. 3 Insurance Company came forward to offer a contest.

I have heard learned counsel for the appellant and learned counsel for the Insurance Company besides going through the record.

A perusal of the impugned Award goes to show that the Tribunal on considering the facts and circumstances of the case and on analysis of the evidence had returned a clear finding that the accident in which Amarjit Singh had suffered injuries had taken place due to rash and negligent driving of the offending vehicle by respondent No. 1 Nirmal Shah. It being so, the driver, owner and Insurance Company of the offending vehicle were held to be liable to pay compensation to petitioner claimant Amarjit Singh. While calculating the compensation the Tribunal kept in view the fact that in terms of the disability certificate Ex. P66 proved on the record it has been found to be a case of physical disability to the extent of 32% with a further recital that condition of the claimant injured was not likely to improve. Considering the age of injured as 45 years and that even by putting physical labour claimant might be earning Rs.6,000/- per month from his stated avocation of agriculture and dairy farming resulting in earning of Rs.20,000/-, the Tribunal went on to calculate annual loss of income as Rs.23,000/- (Rs.6000 x 12 x 32%). The Tribunal had added 30% of this amount towards future prospects whereas as per settled law it should have been 25%. In that way

annul loss of total income comes out to Rs.28,750/-. After doing this exercise the Tribunal seems to have forgotten to calculate the total amount by using multiplier formula in this case. Considering the age of injured multiplier of 14 is to be applied. In that way the total amount comes out to Rs.4,02,500/-. The Tribunal has awarded compensation under conventional Heads i.e. for pain and suffering to the tune of Rs.25,000/-, Rs.25,000/- as transportation charges and similar amount for availing help to carry out daily routine and Rs.25,000/- has been awarded towards special diet and Physiotherapy.

I find this amount to be adequate. Whereas a sum of Rs.2,40,374/- has been calculated to be awarded towards medical expenses considering various bill and cash memos etc. proved in evidence but some how not added. This amount is also required to be added so as to calculate total compensation to the claimant. Therefore, the total amount comes out to Rs.7,17,874/- to make it round figure as Rs.7,18,000/-. Therefore, the compensation awarded by the Tribunal is enhanced to Rs.3,72,000/- payable with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization with costs throughout. The liability to pay this amount would be joint and several by all the three respondents.

The appeal is allowed partly.

(H.S. MADAAN)
JUDGE

March 15, 2023
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No