

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

FAO No.1789 of 2003 (O&M)

Date of decision: 21.12.2015

Kapil Dev Sharma

.....Appellant

Versus

Pankaj Kumar and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.P. Sharma, Advocate,
for the appellant.

Mr. Sandeep Moudgil, Advocate,
for respondent No. 1.

Mr. Pardeep Goyal, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 13.01.2003 on account of injuries suffered by him in a vehicular accident, which took place on 04.05.1998.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.05.1998, the appellant along with his friend namely Kusal was going towards his uncle's house in Sector 3, Urban Estate, Kurukshetra on a scooter bearing registration No. HNK-2181. He himself was driving the scooter, whereas his friend was a pillion rider. At about 11.30 A.M, when they reached near Umri Chowk, a four wheeler bearing registration No. HR-06-7258 being driven by Pankaj

Kumar-respondent No.1 in a rash and negligent manner came from wrong

side and hit against his scooter, as a result of which, the claimant and his friend fell down and received injuries. One Kirpal Singh took the injured to a hospital. 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 has returned a finding on issue No.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by Pankaj Kumar-respondent No.1. This finding is rightly based on the deposition of Kapil Dev Sharma-claimant (PW-1). Respondent No.1-driver and respondent No.2-owner of the offending vehicle did not appear and contest the claim petition. Dr. A.C. Nagpal (PW-2), who had medically examined the claimant, deposed that injury Nos. 1 and 2 were grievous in nature and there was a fracture of underlying bone. He was admitted in the hospital on 04.05.1998 and was discharged on 11.05.1998. It means, he had stayed for 10 days in the hospital. He was charged a sum of Rs.2000/- on account of treatment given in the hospital. Ultimately, the claim petition was accepted by the Tribunal and a lump sum amount of Rs.10,000/- was awarded as compensation, which included pain and suffering, cost of treatment, loss of income and special diet etc. 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-appellant has received injuries as a result of the accident.

Keeping in view the peculiar circumstances of the case and the injuries suffered by the claimant, the compensation is re-assessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Special diet	Rs.5000/-
(ii)	Pain and sufferings	Rs.15,000/-
(iii)	Medical treatment, attendant and transportation charges etc.	Rs10,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.30,000/-
	Enhanced amount of compensation	Rs.30,000 – 10,000/- = Rs.20,000/-

The enhanced amount of compensation of **Rs.20,000/-** 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 **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others**, 2015(1) SCC 539. 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.

21.12.2015
ajp

(RITU BAHRI)
JUDGE