

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

**FAO No.3744 of 2003 (O&M)
Date of decision: 29.09.2015**

Rameshwar

....Appellant

Versus

Gurmit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjeev Gupta, Advocate
for the appellant.

Mr. Rohit Goswami, Advocate
for Mr. Vishal Chaudhri, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.16420-CII of 2003

For the grounds mentioned in the application, the same is allowed and the delay of 23 days in filing the appeal stands condoned.

MAIN CASE

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 16.04.2003, on account of injuries sustained by the claimant-appellant in a motor vehicular accident,

which took place on 29.04.2001.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.04.2001, the claimant-appellant, namely, Rameshwar and one Sandeep while going on motorcycle bearing registration No.HR-06-F-2505, were hit by a three-wheeler bearing engine No.RG-55314, Chasis No.JJ-058619, being driven by Gurmit Singh @ Nikka-respondent No.1, near Peer Baba, just ahead of village Kheri Sharaf Ali. As a result thereof, the claimant-appellant, namely, Rameshwar as well as Sandeep fell down on the road and sustained multiple injuries on their persons.

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 the finding on Issue No.1 in favour of the claimant-appellant and came to a conclusion that the accident was caused on account of rash and negligent driving by Gurmit Singh @ Nikka-respondent No.1. The claim petition was partly accepted by the Tribunal and a sum of Rs.46,500/- was awarded as compensation on account of injuries sustained by the claimant-appellant.

The injured-claimant suffered pecuniary loss due to fractures for at least four months and his monthly income, as daily

wager, was assessed at Rs.2,000/- per month, thus, a sum of **Rs.8,000** (Rs.2,000 x 4) was awarded on account of pecuniary loss suffered by him. A sum of **Rs.15,000/-** was allowed in respect of pain and suffering, **Rs.6,000/-** was allowed in respect of special diet. Another sum of **Rs.7,500/-** was also allowed, which he had paid to Dr.K.L. Sachdeva vide receipt Ex.P-2 and **Rs.10,000/-** was allowed for purchasing medicines and X-ray examination. Hence, the injured-claimant was found entitled for total compensation of **Rs.46,500/-** (**Rs.8,000 + Rs.15,000 + Rs.6,000 + Rs.7,500 + Rs.10,000/-**).

Feeling dissatisfied with the impugned award, the appellants have 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 injured-claimant has received injuries, as a result of the accident.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Pain and suffering	Rs.30,000/-
(ii)	Loss of earnings (3,000 x 4)	Rs.12,000/-
(iii)	Special Diet and Transportation Charges	Rs.15,000/-

(iv)	Expenses for medical treatment	Rs.17,500
(v)	TOTAL COMPENSATION AWARDED	Rs.74,500/-
(vi)	Enhanced amount of compensation	(Rs. 74,500/-) – (Rs.46,500/-) =Rs.28,000/-

The enhanced amount of compensation of **Rs.28,000/-** 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.

(RITU BAHRI)
JUDGE

29.09.2015
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