

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

FAO No.2808 of 2003 (O&M)

Date of decision: 15.10.2015

Parmod

....Appellant

Versus

Hans Raj and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Gaur, Advocate
for the appellant.

Mr. Pardeep Goyal, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 11.04.2003, on account of injuries sustained by Parmod in a motor vehicular accident which took place on 30.05.2000.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 30.05.2000, Sonu, Parmod, Sat Narain and Mani Ram, were travelling in jeep bearing registratin No.HR-20-C-5071 along with other passengers. The jeep was being driven by respondent No.4 at a moderate speed by observing the traffic rules. After crossing TTC, when the jeep

reached near New Auto Market on G.T. Road, Hisar, then Gedu and others asked respondent No.4 to drop them near Auto Market. On that request, the respondent No.4 stopped the jeep on extreme left side of the road and dropped the occupants/passengers of the jeep. In the meanwhile, one Tata 407 bearing registration No.HR-39-2116, came from the side of Hisar, being driven by Hans Raj-respondent No.1, rashly and negligently, hit the jeep. As a result of the said impact, Sonu, Mani Ram, Parmod and Sat Narain received multiple and grievous injuries. After that, respondent No.1 fled away leaving behind his Tata 407 from the spot.

In this regard, FIR No.344 dated 30.05.2000, in respect of the accident in question, was got registered at Police Station Sadar, Hisar.

Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, the claimant-appellant appeared as PW-7 to prove the accident in question. PW-3-Dr. Ramesh Jain has stated that on 30.05.2000, Parmod was brought to his hospital with the compound fracture both bone leg. The patient was given treatment by debridement of wound and POP case. The patient was discharged from hospital on 03.06.200. He proved the copies of discharge card Ex.P-13 and treatment record Ex.P-14.

Dr. Joginer Kapoor appeared as PW-10 and proved the

Disability Certificate Ex.P-51, issued by the Board of Central Hospital, Hisar being Member of the Board. According to Ex.P-51, the appellant suffered permanent disability to the extent of 40% with the diagnosis post traumatic deformity right low limb with TBI fracture with the restricted flexion movement at the knee joint. The appellant was got re-examined for permanent disability on the request of respondent No.3 from the Board of Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Science (Pt. SDS PGIMS), Rohtak, for re-assessment of the permanent disability. After re-examination of the appellant, the report Ex.R-6 was received from PGIMS, Rohtak, according to which the appellant suffered temporary disability to the extent of 5% on account of mild local pain and minimal stiffness right ankle and right knee and the Tribunal has returned the finding on Issue No.1 in favour of the claimant-appellant.

Ultimately, on the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving by Hans Raj-respondent No.1. The claim petition was accepted by the Tribunal and a sum of Rs.25,640/- was awarded as compensation on account of injuries sustained by Parmod along with future interest @ 9% per annum from the date of filling the petition till actual realization.

The Tribunal has awarded the amount of compensation under various heads. The same reads as under :-

SR. NO.	HEADS	CALCULATIONS
1.	Pain and sufferings and temporary disability	Rs.15,000/-
2.	Special diet, transportation and attendant charges	Rs.4,000/-
3.	Medical expenses	Rs.6,642/-
4.	Total	Rs.25,642/- (rounded off to Rs.25,640/-)

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 sustained injuries as a result of the accident.

While assessing the compensation the Tribunal has rightly awarded the amount of Rs.6642/- on account of medical expenses incurred by the claimant-appellant. Thus, this finding does not call for any interference by this Court.

However, keeping in view the fact that the accident took place in the year 2000, the amount of compensation in respect of pain and sufferings, special diet, transportation and attendant charges are being re-assessed/modified as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Pain and sufferings and temporary disability	Rs.30,000/-
(ii)	Special diet, transportation and attendant charges	Rs.10,000/-

(iii)	Medical expenses	Rs.6,642/-
(iv)	TOTAL COMPENSATION TO BE AWARDED	Rs.46,642/- (rounded off to Rs.46,640)
(v)	Enhanced amount of compensation	(Rs.46,640/-) – (Rs.25,640/-) =Rs.21,000/-

Accordingly, the claimant-appellant is entitled to claim **Rs.21,000/-** more in addition to the amount already awarded by the Tribunal. The enhanced amount of compensation 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

15.10.2015
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