

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

FAO No.1335 of 2000 (O&M)

Date of decision: 07.12.2015

Ram Kiror

....Appellant

Versus

Jagdish and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Arora, Advocate
for the appellant.

Ms. Madhu Sharma, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.7165-CII of 2000

For the grounds mentioned in the application, the same is allowed and the delay of 68 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, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 13.09.1999, on account of injuries sustained by him, in a motor vehicular accident which took place on 02.02.1996.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 02.02.1996, at 07:15 a.m., Ram Kiror and Raj Pal were paddling the cycle from Palwar to Faridabad to attend their duties. In the meantime, an offending half body truck bearing registration No.HR-30-5792 being driven by respondent No.1 in a rash and negligent manner came from the opposite side and Ram Kiror swerved his cycle on the kacha portion of the road, but respondent No.1 could not control over the truck and ultimately dashed against the cycle. As a result of said impact, Ram Kiror and Raj Pal sustained multiple injuries and were removed to the hospital.

In this regard, FIR Ex.P-2, in respect of the accident in question, was got registered.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, the claimant-appellant, Ram Kiror appeared as PW-1, to prove the accident in question. Raj Pal appeared as PW-2 and Des Raj appeared as PW-3, to corroborate the testimony of PW-1.

Neither the driver of the offending vehicle nor any other person claiming to have witnessed the accident appeared in the witness-box to rebut the statements of PW-1, PW-2 and PW-3 and 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 respondent No.1.

The claim petition was accepted by the Tribunal and a sum of Rs.23,850/- was awarded as compensation on account of injuries sustained by Ram Kiror along with future interest @ 12% per annum from the date of filling the petition till actual realization.

Dr. S.C. Goyal appeared as PW-4 and deposed that Ram Kiror was hospitalised in Sukh Ram Hospital, Palwal w.e.f. 02.02.1996 to 19.02.1996. He was suffering from multiple injuries and X-ray for right knee joint was advised. However, he was discharged vide photocopy of discharge summary Ex.PW-4/1. Later on, fracture was detected. He has further proved Ex.PW-4/2 medical bill to the tune of Rs.3,850/-. However, no medical certificate has been brought on record with regard to fracture of knee joint.

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

SR. NO.	HEADS	CALCULATIONS
1.	Medical expenses	Rs.3,850/-
2.	Pain and sufferings	Rs.20,000/-
3.	Total	Rs.23,850/-

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.3,850/- 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 1996, the amount of compensation in respect of pain and sufferings, special diet and transportation, are being re-assessed/modified as under:-

SR. NO.	HEADS	CALCULATIONS
1.	Medical expenses	Rs.3,850/-
2.	Pain and sufferings	Rs.30,000/-
3.	Special diet and transportation	Rs.10,000/-
4.	TOTAL COMPENSATION TO BE AWARDED	Rs.43,850/-
5.	Enhanced amount of compensation	(Rs.43,850/-) – (Rs.23,850/-) =Rs.20,000/-

The enhanced amount 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.

(RITU BAHRI)
JUDGE

07.12.2015

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