

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

FAO No. 1829 of 1998

Date of decision:- 14.10.2015

Satish Kumar

...Appellant

Versus

Subhash Chander and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Saurabh Bhardwaj, Advocate for
Mr. P.S. Rana, Advocate
for the appellant

None for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

1. The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 27.07.1998 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') to the tune of Rs.82,350/-.

FACTS NOT IN DISPUTE

2. On 23.11.1996, appellant along with his servant Jhabu Lal were returning from Ladwa on motorcycle bearing No. HR-07-5281 driven by him at a slow speed. The brother of the appellant i.e Ashok Kumar was also coming behind them on a scooter and was going to Babain.

When they reached in the area of village Beholpur, a tractor bearing registration No. PNO 1427 came from opposite side, being driven by Subhash Chand in rash and negligent manner, hit the motorcycle of the appellant, as a result of which the appellant along with his servant fell down and received injuries. A criminal case i.e F.I.R No. 115 dated 23.11.1996 under Sections 279/337 IPC was registered in this regard.

3. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced

4. I have heard learned counsel for the appellant and perused the record.

COMPENSATION ASSESSED BY MACT

5. The Tribunal awarded sum of Rs.41,350/- on account of medical bills and Rs.41,000 towards the disability.

RE-ASSESSED COMPENSATION

6. In the facts of the present case, the fact which is not in dispute is that the appellant remained admitted in P.G.I Chandigarh from 23.11.1996 to 02.06.1997 and thereafter remained as indoor patient in the clinic of Dr. Ashok Gupta from 04.06.1997 to 02.07.1997. As per disability certificate, his total physical disability has been assessed at 41% (A-116). He sustained fracture right femur and right leg along with soft tissue injury.

7. Reference at this stage can be made to a judgment of **Ram Kiran Goyal vs. Sub Divisional Engineer (Mechanical) 2008 (2) RCR (Civil) 103** whereby victim suffered 55% disability and compensation was awarded at the rate of Rs.2000/- for every 1% disability.

8. In view of the above mentioned judgment, the compensation is re-assessed as under:-

HEAD	COMPENSATION AMOUNT
Annual Salary	Rs.30000
Loss of earnings during recovery	Rs.24,000/-
Loss on account of disability	41X2000=Rs.82,000/-
Special Diet and Transportation Charges	Rs.10,000/-
Attendant	Rs.5,000/-
Future Medical treatment	Rs.5,000/-
Medical expenses	Rs.41,000/-
TOTAL COMPENSATION AWARDED:-	Rs.1,67,000/-
ENHANCED AMOUNT OF COMPENSATION	1,67,000-82,350=Rs.84,650- (rounded of to Rs.84700)

9. The enhanced amount of compensation of Rs.84,700/- shall be payable within a period of forty five days 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 a 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.

10. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

October 14, 2015

G Arora

(**RITU BAHRI**)
JUDGE