

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

FAO No.4733 of 2002 (O&M)

Date of decision: 02.11.2015

Anant Ram

.....Appellant

Versus

Brij Pal and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Krishan Kumar, Advocate,
for the appellant.

Mr. Ravinder Arora, 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 the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal') vide award dated 05.06.2002 on account of injuries suffered by him in a vehicular accident, which took place on 29.10.2000.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.10.2000, at about 1.30 p.m., Anant Ram-appellant was coming from village Athira on a motorcycle bearing registration No. HR-08-C-3124. When he reached near the canal bridge ahead of village Meoli, in the meantime, a truck bearing registration No. HNC-1196, being driven by Brij Pal-respondent No.1 in a rash and negligent manner, came from the side of Pundri and struck against the motorcycle of Anant-appellant, as a result of which, he fell down. The wheel of the offending truck rolled upon the right leg and head of the claimant-appellant and he received grievous injuries. His motorcycle was also damaged. Sham Sunder Patwari took him to Civil Hospital, Kaithal.

After the accident, respondent No.1 fled from the spot after leaving the truck. Thereafter, the claimant was referred to PGI, Chandigarh. The accident had taken place due to the rash and negligent driving of the offending truck by respondent No.1. With regard to the accident, FIR No.217 dated 30.10.2000, under Sections 279, 337, 427 IPC was registered at Police Station, Pundri. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.1 in favour of the claimant by observing that the accident took place on account of rash and negligent driving of truck bearing registration No. HNC-1196 by Brij Pal-respondent No.1. As per disability certificate (Ex.P4), the claimant had suffered 33% disability and was operated upon many a times. Ultimately, the claim petition was accepted by the the tribunal and a sum of Rs.2,76,500/- was awarded on the basis of medical bills and Rs.40,000/- were awarded on account of disability. Apart from this, Rs.25,000/- were granted on account of pain and sufferings, Rs.20,000/- for special diet and transportation charges and Rs.10,000/- for loss of income. Hence, the complainant was found entitled to a total sum of Rs.3,71,500/- as compensation on account of injuries suffered by the claimant-appellant along with interest at the rate of 9% per annum from the date of filing of the petition till its realization.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case

The fact of accident is admitted and proved. It stands established that the claimant-appellant has received injuries as a result of the accident. The compensation is being sought to be reassessed on the basis of deposition of Dr. J.N. Satpathy, Senior Resident Orthopaedic, PGI, Chandigarh (PW-2), who stated that patient-Anant Ram was examined by him on 30.10.2000 and was operated upon twice. He remained admitted in PGI, Chandigarh w.e.f. 30.10.2000 to 21.11.2000. Dr. Bobby John, Profession of Orthopaedics, Christian Medical College, Ludhiana (PW-3) deposed that the claimant was admitted in the hospital on 22.11.2000 for treatment with an open infected tibial fracture with extensive wound. He remained in the hospital till 05.01.2001. Thereafter, he was admitted on 14.02.2001 and was discharged on 17.02.2001. Again he was admitted in the hospital third time on 02.06.2001 and discharged on 08.06.2001. Thereafter, the patient was admitted on 30.06.2001 for wound dressing and was discharged on 06.07.2001. Lastly, he was admitted on 01.08.2001 for dermatitis and discharged on 05.08.2001. During this period, he was operated six times. Dr. Vijay Obed, CMC Ludhiana (PW-4) deposed that Anant Ram-appellant was operated by him three times i.e. on 07.12.2000, 11.12.2000 and 12.12.2000. As per deposition of Dr. Bimla Gauri, Orthopaedician, Civil Hospital, Kaithal (PW-7), injured-Anant Ram was 50 years of age and on account of injuries, he was having severe restriction of movement of right knee and the percentage given was 12%. There was shortening of right leg by 1½ inch and the percentage given was 8%. Total disability was assessed as 33% as per certificate (Ex.P4).

The claimant-appellant was working in Irrigation Department as Zildar and was drawing basic salary of Rs.6550/- per month. On account

Irrigation Department, but due to shortening of leg, there has been loss of enjoyment of life and loss of amenities. Hence, there is no loss of earnings. Accordingly, 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	CALCULATION
(i)	Medical Bills	Rs.2,76,500/-
(ii)	Compensation on account of disability of 33%	Rs.66,000/- (Rs.2000/- per percent)
(iii)	Compensation on account of pain and sufferings	Rs.50,000/-
(iv)	Special diet and transportation charges	Rs.40,000/-
(v)	Loss of income	Rs.10,000/-
(vi)	Loss of amenities	Rs.50,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.4,92,500/-
	Enhanced amount of compensation	Rs.4,92,500 – 3,71,500 = Rs.1,21,000/-

The enhanced amount of compensation of **Rs.1,21,000/-** 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.

02.11.2015
ajp

(RITU BAHRI)
JUDGE