

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

**FAO No.1855 of 2002
Date of decision: 09.12.2015**

Vipin Kumar

....Appellant

Versus

Ram Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramender Chauhan, Advocate
for the appellant.

Mr. Ishan Cooner, Advocate
for respondent No.1.

Mr. Sukhdarshan Singh, Advocate
for respondent No.2.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 27.09.2001, on account of injuries sustained by him in a motor vehicular accident which took place on 23.07.1999.

FACTS NOT IN DISPUTE

On 23.07.1999 at 08:30 p.m., Vipin Kumar was going to his house on his cycle. When he reached near the Panchayat Bhawan, Ambala City, a motorcycle bearing registration No.HR-

07-C-1178 came from behind at a high speed without blowing any horn and hit the cycle. As a result of the said impact, the claimant-Vipin Kumar fell down and his right hand was crushed under the wheels of the motorcycle. The four fingers of the right hand were crushed and had been amputated.

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-3 and proved the accident in question by stating that on 23.07.1999, he was going to his house on a cycle and was driving it on the left side of the road and at about 08:30 p.m., when he reached near the Panchayat Bhavaan, a motorcycle bearing registration No.HR-07-C-1178, came from behind and hit his cycle, on which, he fell down and his right hand was crushed under the front wheel of the motorcycle. Thus, the Tribunal has returned the finding on Issue No.1 in favour of the claimant-appellant.

Dr. Rajinder Mann, Orthopaedic Surgeon of Mann Orthopaedic Hospital appeared as PW-1 and deposed that Vipin Kumar was admitted in his nursing home with a crush injury of all the four fingers of the right hand. He stated that the amputation of the distal phalanges of the fingers had to be done. He also stated that the patient was discharged after three days and he had against

attended the OPD till 07.11.1999. He proved the OPD Card Ex.P-1. He stated that the permanent disability was assessed by him and it was found to the extent of 35%. He stated that the patient could not hold anything in his right hand and he had charged Rs.1,700/- as his fees and Rs.3,000/- as hospital charges which included the medicines during the indoor treatment. He stated that the claimant must have spent Rs.2,500/- after the discharge.

Dr.P.K. Nigam, Member of the Handicapped Board, appeared as PW-2 and he assessed the disability of the claimant as 19%. He proved the Disability Certificate Ex.P-2. He stated that this disability was permanent in nature and in relation to the whole body.

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 Ram Singh-respondent No.1. The claim petition was accepted by the Tribunal and a sum of Rs.1,05,200/- was awarded as compensation on account of injuries sustained by Vipin Kumar 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.	Permanent disability	Rs.1,00,000/-
2.	Medical expenses	Rs.5,200/-

3.	TOTAL	Rs.1,05,200/-
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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.

Keeping in view the fact that the accident took place in the year 1999, the amount of compensation in respect of permanent disability, pain and sufferings, special diet, transportation and attendant charges are being re-assessed/modified as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Permanent disability to the extent of 35%	Rs.1,00,000/-
(ii)	Special diet, transportation and attendant charges	Rs,75,000/-
(iii)	Medical expenses	Rs.5,200/-
(iv)	TOTAL COMPENSATION TO BE AWARDED	Rs.1,80,200/-
(v)	Enhanced amount of compensation	(Rs.180,200/-) - (Rs.1,05,200/-) =Rs.75,000/-

Accordingly, the claimant-appellant is entitled to claim **Rs.75,000/-** 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

09.12.2015

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