

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

**FAO No.4946 of 2004
Date of decision: 16.10.2015**

Sher SinghAppellant
Versus
Mukesh Kumar and anotherRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Khurana, Advocate
for the appellant.

None for the respondents.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 02.09.2004, on account of injuries sustained by Sher Singh in a motor vehicular accident which took place on 04.10.2000.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.10.2000, Sher Singh along with his brother Lala Ram and son Mahender Singh was going to village Nandha from Rewari by travelling in a tempo bearing registration No.HR-46-2871. About ten to eleven other passengers were also on board in the said tempo. The tempo was being driven by respondent No.1-Mukesh in a rash and negligent manner and at fast speed. Sher Singh and other passengers asked

the driver to drive the tempo with care but he did not pay any heed. Due to the high speed of tempo, in question, it fell down in a road side ditch, which caused various injuries to Sher Singh besides other passengers. Respondent No.1-Mukesh driver of the tempo, fled away from the spot. The brother the appellant managed a vehicle and shifted Sher Singh to General Hospital, Rewari.

In this regard, FIR No.256 dated 05.10.2000, under Sections 279, 337 and 338 IPC and Section 181 of the Motor Vehicles Act, in respect of the accident in question, was got registered at Police Station Khol.

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-1 to prove the accident in question. The son of the appellant, namely, Mahender Singh, also appeared as PW-2, to corroborate the testimony of PW-1.

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 of tempo by Mukesh-respondent No.1 and the Tribunal has rightly returned the finding on Issue No.1 in favour of the claimant-appellant.

The claim petition was accepted by the Tribunal and a

sum of Rs.30,000/- was awarded as compensation on account of injuries sustained by Sher Singh along with future interest @ 6% 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.	Medical expenses	Rs.5,000/-
2.	Transportation expenses	Rs.3,000/-
3.	Special diet	Rs.3,000/-
4.	Loss of income	Rs.5,000/-
5.	Attendant charges	Rs.4,000/-
6.	Pain and sufferings	Rs.10,000
7.	Total	Rs.30,000/-

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.

The claimant-appellant has placed on record the copy of MLR prepared on 04.10.2000, at Government Hospital, Rewari as Ex.P-8, which reveals that he was found to have sustained as many as four injuries, which were on left side on his forehead, swelling around right arm, right side of chest and right forearm. Ex.P-1 is

the OPD Report of Safdarjang Hospital, New Delhi, which shows that the claimant-appellant had been there on 05.10.2000 with the history of road side accident. As per OPD Card, he was found to have sustained fracture of right humerus shaft and right side ribs. Ex.P-2 is the X-ray Report of Safdarjang Hospital, Delhi in this regard. Dr. Ajay Shukla from Dr. Ram Manohar Lohiya Hospital, Delhi appeared as PW-4 and deposed that on 17.10.2000, he had examined the claimant-appellant, who had sustained fracture of pubic and fracture of shaft of right humours. He proved the OPD Record as Ex.PW-4/A in this regard. Ex.P-3 to Ex.P-7, are the X-ray Reports relating to Dr. Ram Manohar Lohiya Hospital. PW-3, Dr. Anil Yadav has deposed that he had treated the claimant-appellant on 17.10.2000 as OPD patient. On radio-logical examination, it was found that claimant-appellant has fracture of shaft humerus right side for the last two weeks. He proved the OPD Card as Ex.PW-3/A and also deposed that the patient was advised six weeks plaster.

Keeping in view the fact that the claimant-appellant was advised six weeks plaster and this would restrained him from performing his work being an agriculturist, the amount of compensation in respect of transportation, special diet, pain and sufferings and loss of income are being re-assessed/modified as under:-

SR. NO.	HEADS	CALCULATIONS
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1.	Medical expenses	Rs.5,000/-
2.	Transportation expenses	Rs.6,000/-
3.	Special diet	Rs.10,000/-
4.	Pain and sufferings	Rs.20,000/-
5.	Loss of income	Rs.10,000/-
6.	Attendant charges	Rs.4,000/-
7.	Pain and sufferings	Rs.10,000/-
7.	TOTAL COMPENSATION TO BE AWARDED	Rs.55,000/-
8.	Enhanced amount of compensation	(Rs.55,000/-) – (Rs.30,000/-) =Rs.25,000/-

Accordingly, the claimant-appellant is entitled to claim **Rs.25,000/-** 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

16.10.2015
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