

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

**FAO No.5926 of 2002 (O&M)
Date of decision:29.10.2015**

Samay Singh

....Appellant

Versus

Anurag Sangal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr.Ram Avtar, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

Learned counsel for the appellant has not been able to give correct address of respondent No.1. He was driver-cum-owner of the offending vehicle, which was insured with respondent No.2-Insurance Company. Therefore, service of respondent No.1 is dispensed with.

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 18.07.2002, on account of injuries received by him in a motor vehicular accident which took place on 21.05.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.05.1999, at about 9.00 a.m., claimant-appellant Samay Singh along with Jaspal was riding on a motorcycle bearing registration No.HR-29-H-1959. The motorcycle was

being driven by Jaspal. When they reached in Sector 25, near Plot No.77, a scooter bearing registration No. HR-51-D-6590 being driven by Anurag Sangal-respondent No.1 in a rash and negligent manner, came from the opposite side and tried to overtake a truck coming from that side, however, he could not control his vehicle and struck against the motorcycle of the claimant, as a result of which, claimant as well as Jaspal fell down and received injuries on various parts of their bodies. They were taken to nearby hospital, where they were medico-legally examined. Due to receipt of injuries, they have become handicapped and suffered a lot. With regard to the accident, FIR No.374 dated 21.05.1999, under Sections 279 and 337 IPC was registered at Police Station, City Ballabgarh against respondent No.1. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending scooter by respondent No.1, which resulted into multiple injuries to the claimant-appellant and thus, returned the finding on issue No.1 in favour of the claimant. This finding has been rightly based on the deposition of claimant. It was consistent version of the claimant and Ram Avtar (PW-5) that respondent No.1 was driving the offending vehicle in a rash and negligent manner, which resulted into the accident. FIR (Ex.P1) was registered against respondent No.1. Before the Tribunal, Samay Singh-claimant had proved the medical bills as Ex.P3 to Ex.P24 and Ex.P27 to Ex.P30, according to which, a sum of Rs.32,880.80 Ps. had been spent by him on his medicines. Accordingly, the Tribunal

awarded a sum of Rs.32,880.80 Ps. as compensation on account of purchasing of medicines. Apart from this, a sum of Rs.2000/- was awarded on account of special diet and Rs.5000/- for loss of income. Ultimately, the claim petition was accepted by the Tribunal and the claimant was held entitled to a total compensation of Rs.39,880/-. 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.

As per deposition of Dr. K.C. Gupta (PW-3), claimant-appellant Samay Singh had suffered following injuries in the aforesaid accident:-

- 1. Lacerated parietal region of the skull.
- 2. Fracture shaft femur right.
- 3. Fracture lateral tibial plateau right.
- 4. Compound commuted fracture both bone right leg.
- 5. Avulsion of right sole with bearing of foot bones.

He further deposed that the claimant-appellant remained admitted in hospital w.e.f. 21.05.1999 to 01.06.1999. Keeping in view the nature of injuries suffered by the claimant-appellant, the compensation is being reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Medical expenses	Rs.32,880.80
(ii)	Loss of income	Rs.5000/-
(iii)	Special diet	Rs.2000/-
(iv)	Pain and sufferings	Rs.10,000/-
(v)	Transport charges	Rs.3000/-
(vi)	Attendant charge	Rs.2000/-

(vii)	TOTAL COMPENSATION AWARDED	Rs.54,880/-
(viii)	Enhanced amount of compensation	Rs.54,880.80 – 39,880.80 = Rs.15,000/-

The enhanced amount of compensation of **Rs.15,000/-** 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

29.10.2015
ajp