

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

**FAO No.4725 of 2005 (O&M)
Date of decision: 09.12.2015**

Gurmej Singh

....Appellant

Versus

Sat Pal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manvinder Sidhu, Advocate,
for Mr. G.S. Sidhu, Advocate,
for the appellant.

Mr. V. Ramaswaroop, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 14.02.2005, on account of injuries received by him in a motor vehicular accident which took place on 29.09.2001.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.09.2001, appellant-Gurmej Singh and Surinder Singh (since deceased) were going from village Sikanderpur, District Sirsa towards Truck Unin, Sirsa on a motorcycle. The motorcycle was being driven by Surinder Singh at a moderate speed. At about 8.30 A.M., when they reached near general bus stand, Hisar road, Sirsa, a truck bearing registration No. HR-39-7692 being driven by Satpal-

respondent No.1 in a rash and negligent manner, came from behind and struck in their motorcycle, as a result of which, both the occupants of motorcycle i.e. Surinder Singh and appellant-Gurmej Singh received injuries. Surinder Singh died on the spot, whereas, Gurmej Singh was taken to Civil Hospital, Sirsa, where he was medico legally examined. The accident was witnessed by Baldev Singh, on whose statement, FIR No.529 dated 29.09.2001, under Section 279/337/304-A IPC was registered at Police Station, City, Sirsa. The case of appellant-Gurmej Singh was that he was an agriculturist at the time of accident and was also running a milk dairy. He was earning Rs.5000/- per month from agriculture and Rs.5000/- from milk dairy. In the accident, he suffered multiple and grievous injuries. His right arm has been amputated. He has lost enjoyment of future life. After the accident, he was taken to Civil Hospital, Sirsa, where he was medico-legally examined. Thereafter, he was referred to C.M.C. Ludhiana, where he remained admitted from 29.09.2001 to 21.10.2001. He had undergone several minor and major operations. He is still getting treatment from C.M.C. Ludhiana. He has spent more than Rs.3 lacs on his treatment and medicines. 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 been caused on account of rash and negligent driving of offending truck by Satpal-respondent No.1, as a result of which Surinder Singh has died and appellant-Gurmej Singh suffered multiple and grievous injuries and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of

deposition of Gurmej Singh (PW-2) and Baldev Singh (PW-5), who was an eye witness of the accident and on whose statement, FIR Ex.P-103 was registered. Ultimately, the claim petition was accepted by the Tribunal and compensation was awarded to the following extent:-

1.	On account of 85% permanent disability as per disability certificate Ex.P1.	85 x 2 = Rs.1,70,000/-
2.	On account of expenses on treatment and medicines as per bills Ex.P-10 to Ex.P-114 and receipt Mark A.	Rs. 1,12,000/-
3.	On account of expenses on transportation, special diet, pain, agony and sufferings.	Rs.50,000/-
4.	On account of expenses on attendant during and after treatment	Rs.25,000/-
	Total	Rs.3,57,000/-

Hence, the claimant was found entitled to total compensation of Rs.3,57,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant have 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 received injuries on account of the above stand accident. His right hand has been amputated and as per disability certificate (Ex.P1), claimant-Gurmej Singh has suffered 85% permanent disability.

In the peculiar facts and circumstances of the case, it would be

appropriate if notional income of claimant-appellant is assessed as Rs.3,000/- per month. As per claim petition, he was 58 years of age at the time of accident. Therefore, multiplier of 9 should be applied in order to assess the loss of income due to disability. Accordingly, the compensation is reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Loss of income on account of 85% permanent disability	Rs.3000/- x 12 x 9 = Rs.3,24,000
(ii)	Expenses incurred on treatment and medicines	Rs.1,12,000/-
(iii)	Expenses incurred on transportation, special diet, pain and sufferings	Rs.75,000/-
(iv)	Expenses on attendant during and after treatment	Rs.50,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.5,61,000/-
(vi)	Enhanced amount of compensation	Rs.5,61,000 – 3,57,000 = Rs.2,04,000/-

The enhanced amount of compensation of **Rs.2,04,000/-** 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

09.12.2015
ajp