

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

**FAO No. 400 of 2011
Date of decision:- 04.09.2015**

Rakesh Kumar

...Appellant

Versus

Mohan Dass and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Munish Mittal, Advocate
for the appellant

Mr. Rajbir Singh, Advocate
for respondent No.3

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 02.08.2010 passed by the learned Motor Accident Claims Tribunal (F.T.C), Karnal (for short, 'the Tribunal') to the tune of Rs.50,660/-.

FACTS NOT IN DISPUTE

2. On 16.07.2008, appellant along with his brother Deepak Kumar alias Mintoo was going from Inciri towards Ladwa on Indri-Ladwa Road on his motorcycle bearing registration No. HR-07L-7404 being driven by Deepak Kumar @ Mintoo and when they reached on the bridge of the Canal, a truck bearing registration No. HR-69B-0722

driven by respondent No. 1 rashly and negligently came from Ladwa side and hit against their motorcycle, as a result of which the accident took place and the claimant and his brother fell down on the road and front tyre of the truck ran over the legs of the appellant. A criminal case i.e F.I.R No. 130 dated 21.07.2008 under Sections 279/337/338 IPC was registered against respondent No. 1.

3. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment

4. On the other hand, the learned counsel for the respondent-Insurance Company have vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY MACT

6. The Tribunal took the salary of the appellant as Rs.3900/- and the annual income comes to Rs.46800/-. Deduction of 1/3 was applied and the income comes to Rs.31200/-. Rs.15600/- was awarded on account of loss of income and for the medical bills, Rs.25,060/- was awarded and Rs.10,000/- towards pain and suffering.

RE-ASSESSED COMPENSATION

7. In the facts of the present case, as per disability certificate (Ex P38), the appellant suffered 41 percent disability which was permanent in nature. However, the Tribunal has given a finding that since the claimant has failed to examine the doctor concerned in order to prove its disability, the disability certificate cannot be believed to be true.

8. Reference at this stage can be made to a judgment of **Ram Kiran Goyal vs. Sub Divisional Engineer (Mechanical) 2008 (2) RCR (Civil) 103** whereby victim suffered 55% disability and compensation was awarded at the rate of Rs.2000/- for every 1% disability.

RE-ASSESSED COMPENSATION

7. In view of the above judgment, the compensation is re-assessed as under:-

HEAD	COMPENSATION AMOUNT
Loss on account of disability	41X2=Rs.82,000/-
Loss of earnings during recovery	Rs.20,000/-
Special Diet and Transportation Charges	Rs.15,000/-
Attendant	Rs.5,000/-
Medical treatment	Rs.10,000/-
TOTAL COMPENSATION AWARDED:-	Rs.1,32,000/-
ENHANCED AMOUNT OF COMPENSATION	1,32,000-50,660=Rs.81,340/- (rounded of to Rs.81400)

8. The enhanced amount of compensation of Rs 81 400/-

shall be payable within a period of forty five days 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 a 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.

9. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

September 04, 2015
G Arora

(***RITU BAHRI***)
JUDGE