

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 4435 of 2012 (O&M)

Date of decision : September 3, 2015

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Sunny alias Sunny Minhas

.....Appellant

Versus

Sat Pal Singh and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. B.S Dhillon, Advocate for the appellant.

Mr. Pardeep Goyal, Advocate for respondent no.4.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

C.M No. 19284-CII of 2012

C.M is allowed.

For the reasons mentioned in the application, delay of 124 days in filing the appeal is allowed.

FAO No. 4485 of 2012

The injured/appellant-claimant has come up in appeal seeking enhancement of the amount of compensation awarded by the Motor Accident Claims tribunal, Hoshiarpur (for short, 'the Tribunal') to the tune of Rs.1,03,600/- along with interest @ 7% per annum from the date of filing of the claim petition till realization of the

amount vide impugned award dated 3.12.2011.

On 28.8.2006, at around 7:15 a.m, appellant-claimant Sunny Minhas along with Pankaj Kumar was going to Talwara on a motor cycle bearing No. PB-21-A-8632. When they reached in the area of Village Rajwal, respondent no.1, Satpal Singh while driving an Indica Car bearing registration No. HR-51H-9394 hit into the said motor cycle over which appellant-claimant was sitting as a pillion rider. As a result, appellant-claimant and other occupant of the motorcycle sustained serious injuries. The appellant-claimant remained admitted in CMC, Ludhiana from 28.3.2006 to 4.4.2006. Regarding the said accident, FIR No.11 dated 28.3.2006 Ex. AX under Sections 279/337/338 IPC was registered against respondent no.1 at the instance of Kewal Singh at Police Station Talwara, Distt. Hoshiarpur.

Sunny Minhas, the injured filed claim petition bearing M.A.C.T Case RBT No. 5 of 07/2010 which was allowed by the Tribunal. The Tribunal accepted the testimony of AW-1, Sunny Minhas and in view of the registration of FIR came to a conclusion that the accident took place on account of the negligent driving of respondent no.1-Satpal Singh while driving the car bearing no. HR-51-B-9394 causing injuries on the person of the appellant-claimant. Dr. SS. Dardi, Medical Officer, Civil Hospital, Khemkaran was examined as AW-2 who proved on record Ex. A1 **temporary disability certificate bearing no. 356 dated 11.5.2007 qua claimant showing the disability to the extent of 20%.** AW-3 Vinod

Kumar cashier from CMC, Hudhaina proved on record medical bills EX. AW3/A, Ex. AW3/2, Ex. AW3/3, Ex. AW3/4, Ex. AW3/5.

The appellant-claimant was held entitled to a total compensation of Rs.1,03,600/- [Rs.20,000/- on account of temporary disability to the extent of 20% @ RS.1000/- per every 1% disability, Rs. 73,536/- on account of medical expenses and Rs.10,000/- on account of pain shock and suffering thus totalling to **Rs.1,03,600/-** (rounded off)].

Feeling dissatisfied by the impugned award, the appellant-claimant has come up in this appeal.

I have heard the counsel for the parties and have gone through the records of the case.

The fact of accident is admitted and proved. While awarding compensation, no amount has been granted towards special diet, loss of earning and attendant charges. The compensation is re-assessed as under

HEAD	COMPENSATION AMOUNT
<i>Pain and suffering</i>	<i>Rs.25,000/-</i>
<i>Temp disability i.e 20%</i>	<i>Rs. 20,000/-</i>
<i>Medical expenses</i>	<i>Rs.73,536/-</i>
<i>Special Diet and Transportation Charges</i>	<i>Rs.10,000/-</i>
<i>TOTAL COMPENSATION AWARDED:-</i>	<i>Rs.1,28,536/-</i>
<i>ENHANCED AMOUNT OF COMPENSATION</i>	<i>(Rs.1,28,536/-)-(Rs.1,03,600/-)</i> <i>=Rs.24936/-</i> <i>rounded off as Rs.25,000/-</i>

The enhanced amount of compensation of Rs.25,000/- 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 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.

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

September 3, 2015
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(RITU BAHRI)
JUDGE