

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

FAO No.1247 of 2013 (O&M)

Date of decision: 02.11.2015

Harpal Singh

....Appellant

Versus

Jaspal Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kulwinder Singh, Advocate
for Mr. Dheeraj Narula, Advocate
for the appellant.

Mr. Rajbir Singh, Advocate
for respondent No.1.

None for respondent No.2.

Mr. Sandeep Suri, Advocate
for respondent No.3.

Mr. Abhishek Goyal, Advocate
for Mr. Pardeep Goyal, Advocate
for respondent No.6.

RITU BAHRI J. (Oral)

CM No.7650-CII of 2013

For the grounds mentioned in the application, the same is
allowed and the delay of 91 days in filing the appeal stands
condoned.

MAIN CASE

This appeal has been filed by the claimant-appellant

seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 22.08.2012, on account of injuries sustained by Harpal Singh, in a motor vehicular accident which took place on 02.06.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 02.06.2008, the claimant-appellant, namely, Harpal Singh was travelling by mini bus bearing registration No.PB-02-AK-9502 from Patiala side to Sunam side. Many other passengers were also travelling in the said bus. The respondent No.1-Jaspal Singh was driving the bus rashly and negligently. At about 11:40 a.m., when the said mini bus reached at Mehlan Chowk, in the meantime, a truck bearing registration No.PB-02-W-9798, being driven rashly and negligently by respondent No.4-Avtar Singh came from Sangrur side for going to Patran side. In spite of crossing about neither bus driver nor truck driver slow down the speed of their respective vehicles. Instead of slowing down the speed, both the drivers tried to cross Mehlan Chowk earlier to each other. In this process, when bus was on the left side corner of Patiala to Patran Road at the crossing/roundabout, the front side of the truck hit against driver side of the bus. As a result of the said impact, the bus turned turtle after crossing left half of the Patran to Mehlan Chowk road. In this accident, many passengers suffered injuries. Binderpal Singh died

on the spot on account of the injuries suffered by him and Harpal Singh suffered various multiple, simple and grievous injuries including crush injury of thumb of left hand.

In this regard, FIR No.128 dated 02.06.2008, under Sections 279, 304-A, 337 and 338 IPC, in respect of the accident in question, was got registered at Police Station Sadar Sunam.

Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, the claimant-appellant, Harpal Singh (eye-witness) appeared as CW-2 and tendered his affidavit Ex.CW-2/A to prove the accident in question.

Ajay Kumar appeared as CW-1, who deposed that he had brought the record pertaining to admission and discharge relating to Harpal Singh, who was admitted in the hospital on 02.06.2008 and he was discharged on 17.07.2008. This witness proved the attested copy of the bills as Ex.C-1 to Ex.C-13, vide which the total expenditure of Rs.96,610/- was incurred.

Jagjit Singh appeared as CW-3, who had brought the summoned record and proved the bills dated 17.07.2008 of Rs.875/- as Ex.C-14 and estimate as Mark-A.

Dr. Gurdip Singh, Medical Officer appeared as CW-4, who deposed that he had brought the original Disability Certificate of Harpal Singh. He further deposed that he was the number of

the Medical Board as an Orthopedic Expert dated 15.07.2009 and personally examined the patient-Harpal Singh and found permanent disability of 42%. He proved the photocopy of the Disability Certificate as Ex.C-15.

CW-6- Dr. Rajneesh Garg deposed that the patient was admitted in the D.M.C. Ludhiana on 02.06.2008. He further deposed that the treatment given was of the head with flap and skin grafting was also done. He further deposed that the patient was discharged on 17.07.2008. This witness proved the copy of the treatment record as Ex.C-16 to Ex.C-17.

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 by respondents No.1 and 4. The claim petition was accepted by the Tribunal and a sum of Rs.2,29,000/- was awarded as compensation on account of injuries sustained by Harpal Singh along with future interest @ 7.5% 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.	Reimbursement of medical expenditure	Rs.1,15,000/-
2.	Pain and sufferings	Rs.30,000/-
3.	Permanent disability	Rs.84,000/-
4.	Total	Rs.2,29,000/-

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.

While assessing the compensation the Tribunal has rightly awarded the amount of Rs.1,15,000/- on account of medical expenses incurred by the claimant-appellant. Thus, this finding does not call for any interference by this Court.

However, keeping in view the fact that the accident took place in the year 2008, the amount of compensation in respect of pain and sufferings, special diet and transportation, are being re-assessed/modified as under:-

SR. NO.	HEADS	CALCULATIONS
1.	Reimbursement of medical expenditure	Rs.1,15,000/-
2.	Pain and sufferings	Rs.50,000/-
3.	Permanent disability	Rs.84,000/-
4.	Loss of amenities	Rs.50,000/-
5.	Special diet	Rs.15,000/-
6.	Transportation charges	Rs.15,000/-
7.	TOTAL COMPENSATION TO BE AWARDED	Rs.3,29,000/-
8.	Enhanced amount of compensation	(Rs.3,29,000/-) – (Rs.2,29,000/-) =Rs.1,00,000/-

The enhanced amount of **Rs.1,00,000/-** 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

02.11.2015

yakub