

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

**FAO No.2314 of 2013 (O&M)
Date of decision: 21.09.2015**

Rajender

....Appellant

Versus

Pushpender Kumar @ Pappu and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Chand Ram Olla, Advocate,
for the appellants.

Ms. Vandana Malhotra, 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, Fatehabad (hereinafter referred to as 'the Tribunal') vide award dated 24.07.2012, on account of injuries received by him in a motor vehicular accident which took place on 20.08.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.08.2010, claimant-appellant left Fatehabad for village Dhangar, Tehsil and District Fatehabad in a three-wheeler bearing registration No. HR-62-2240, which was being driven by Surjit Singh. At about 8.00 P.M., when they reached at G.T. Road near pipe factory in village Dhangar, one Toyota Innova bearing registration No. UP-16-R-9606, being driven by Pushpender Kumar @ Pappu-respondent No.1 in a rash and negligent manner, came from behind and

struck against the three-wheeler, as a result of which Rajender Kumar-appellant received multiple grievous injuries. He was taken to Pahwa Hospital, Fatehabad, from where, he was taken to Chawla Hospital, Hisar. On 21.08.2010, the claimant-appellant was shifted to B.B.B. Heart Care Pruthi Hospital, Jalandhar for better treatment, where he remained admitted till 04.09.2010. Initially, DDR No.30 dated 26.08.2010 was recorded. Thereafter, on an application made by the claimant, a case was registered against respondent No.1 at Police Station, Sadar, Fatehabad. As per claimant, he had spent more than Rs.5,00,000/- on his treatment. It was further pleaded that due to the aforesaid injuries, he became permanently disabled. 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 was caused on account of rash and negligent driving by Pushpnder Kumar @ Pappu-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Rajender Kumar-claimant (PW-1). Kulvinder Singh, record Keeper, Pruthi Hospital, Jalandhar (PW-4) had proved the treatment record as Ex.P11. He also proved bills amounting to Rs.30,000/- (Ex.P12), Rs.60,000/- (Ex.P13), Rs.10,633/- (Ex.P14), Rs.650/- (Ex.P5) and medicine bills (Ex.P16 to Ex.P60). Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.1,41,000/- was awarded as compensation on account of his treatment and medicines. Besides this, he was awarded Rs.10,000/- on account of pain and sufferings, Rs.10,000/- as loss of income and Rs.5000/- as special diet. Hence, the

claimant was found entitled to a total compensation of Rs.1,66,000/-. 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. The claimant-appellant is seeking enhancement of compensation on the ground that he had remained hospitalized for 14 days w.e.f. 21.08.2010 when he was taken to Chawla Hospital, Hisar and thereafter, B.B.B. Heart Care Hospital, Jalandhar, where he remained admitted till 04.09.2010. At the same time, a finding has also been recorded that there was no permanent disability suffered by the claimant. Keeping in view that the claimant-appellant had remained admitted in hospital for 14 days, the compensation is hereby re-assessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Medical treatment and medicines	Rs.1,41,000/-
(ii)	Pain and sufferings	Rs.30,000/-
(iii)	Loss of income	Rs.20,000/-
(iv)	Special diet	Rs.10,000/-
(v)	Transportation charges	Rs.5,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.2,06,000/-
(vii)	Enhanced amount of compensation	Rs.2,06,000 – 1,66,000 = Rs.40,000/-

The enhanced amount of compensation of **Rs.40,000/-** 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

21.09.2015
ajp