

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3559 of 2013

Date of Decision: 04.09.2015

Kuldeep

.....appellants

Vs.

Jitender and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present:- Ms.Avnika Gupta, Advocate for
Mr.Vinod Bhardwaj, Advocate for the appellants.**

**Mr.T.K.Joshi, 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, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 03.04.2013 on account of injury suffered by appellant-Kuldeep in a motor vehicular accident.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 10.07.2010, Kuldeep-appellant along with his cousin Daya Kishan and Pawan Kumar and Deepak Kumar, were going from Bhiwani to Hardwar for a dip in Ganga in his car bearing registration No.HR-16F-3970, being driven by the deceased Kuldeep. At about 11:30 P.M, when they had crossed Lalukheri on Shamli-Muzaffarnagar road, in the meantime one TATA-407 bearing registration No.HR61-4649, being driven by its driver rashly, negligently and at a very speed and in a zig-zag manner, came on the wrong side and struck against the car. Due to heavy impact, Daya Kishan and Deepak Kumar suffered multiple grievous injuries and they died at the spot and Kuldeep-appellant, who was driving the car and Pawan also received grievous

in the hospital and the dead bodies of the deceased Daya Kishan and Deepak Kumar were lying at the spot. The accident had taken place due to sole rash and negligent driving of respondent No.1 while driving offending vehicle bearing registration No.HR61-4649. On having received the information of the accidents and death of the deceased, Ganga Bishan along with several other persons reached at the place of occurrence and on the statement of Ganga Bishan, FIR No.254 dated 11.07.2010 under Sections 279, 337, 338, 304-A and 427 of the Indian Penal Code was registered against respondent No.1. The accident had taken place due to sole rash and negligent driving of respondent No.1 while driving vehicle bearing registration No.HR61-4649.

COMPENSATION ASSESSED BY THE MACT

On account of injuries suffered by him in the accident, appellant-claimant Kuldeep filed claim petition under Section 166 of the Motor Vehicles Act, 1988. He produced the copy of bills mentioning the expenses on account of injury suffered by him. The details of the same mentioned in the paragraph 27 of the award which have been accepted by the learned Tribunal. On account of the same, he was awarded Rs.1,11,983/-. He was declared disabled upto 26% and there was also 30% restriction of movement bilateral knee. As such, the appellant was awarded Rs.52,000/- (26 X Rs.2000) on account of permanent disability qua 26%. In addition to the heads mentioned, he was also awarded Rs.18,000/- on account of hospitalization, Rs.6000/- on account of attendant, Rs.10,000/- on account of pain and suffering, Rs.14,000/- on account of suffering fractures and Rs.5,000/- towards special diet. Thus, total compensation was awarded at Rs.2,16,983/-

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

suffered injuries as a result of this accident.

Learned Tribunal has assessed the compensation of the claimant by applying correct method but compensation over the conventional heads has been awarded on the lower side. Accordingly, the compensation is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
1.	Medical treatment expenses	Rs.1,11,983/-
2	Permanent disability	Rs.52,000/-
3	On account of suffering fractures	Rs.30,000/-
4	Pain and suffering	Rs.30,000/-
5	Hospitalization	Rs.30,000/-
6	Attendant	Rs.12,000/-
7	Special diet	Rs.10,000/-
8	Transportation	Rs.10,000/-
	Total compensation awarded	Rs.2,85,983/-
	Enhanced amount of compensation	[(Rs.2,85,983/-)- (Rs.2,16,983/-)] =Rs.69,000/-

The enhanced amount of compensation of Rs.69,000/- 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

04.09.2015
anil