

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3765 of 2013

Date of Decision: 17.09.2015

Bhim Soni

.....appellant

Vs.

Jagat Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Amit Singla, Advocate for the appellant.

Mr.Sanjeev Kodan, Advocate for respondent No.1.

Mr.Alok Bhatara, Advocate for
Mr.Parveen Kataria, Advocate for respondent No.2.

RITU BAHRI, J. (ORAL)

CM No.15286-CII of 2013

For the reasons mentioned in the application, delay of 170 days in filing the appeal is condoned.

Application stands disposed of.

FAO No.3765 of 2013

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 21.08.2012 on account of injuries suffered by him in a road accident.

FACTS NOT IN DISPUTE

The Brief facts of the case are that on 16.05.2011, the claimant-appellant was going on motorcycle No.HR-20Q/2812 towards Jind city from Gohana side, then a Tata Turbo bearing registration No.HR-56A/016Q being driven by respondent No.1-Jagat Singh, in a rash and negligent manner came from Gohana side and struck into the motorcycle of claimant/appellant from behind, near Police

Naka, Gohana Road. As a result, claimant/appellant sustained injuries. He alleged that the accident took place due to the sole rash and negligent driving of the offending vehicle by respondent No.1. In this regard, FIR No.314 dated 17.05.2011 under Sections 279, 337, 427 IPC was registered at P.S.City Jind against the respondent No.1.

Learned trial Court after framing the issues returned to the findings that accident took place on account of rash and negligent driving of respondent No.1. To support his version, claimant/appellant examined Harish Sharma, Criminal Ahlmad (PW-5) who brought the criminal case file titled ***State Vs. Jagat***, bearing FIR No.314 dated 17.05.2011 for the offence under Sections 279, 337, 427 IPC, P.S.City Jind and stated that as per record the charge had been framed on 18.08.2011. He tendered on record copy of FIR Ex.P37, copy of report under Section Cr.P.C. Ex.P38, photocopy of recovery memo Ex.P39, mechanical report Ex.R2, photo copy of site plan Ex.R3 and driving licence Ex.R4.

As per prosecution case, Dr.B.L.Bagri, PW-2 also deposed that on 16.05.2011 patient Bhim soni (claimant) was admitted in the hospital, with injuries, having received in road side accident. First aid and MLR was prepared at General Hospital, Jind. The claimant/appellant was discharged on 22.05.2011. He was charged Rs.10,300/- vide Bill Mark-B, tender investigation receipts, Bills Ex.PI to Ex.P13 and medicines receipts Ex.P4 to Ex.P10. PW-3 Dr.Ramesh Jain, Jain Orthopedic hospital, Hisar, deposed that the appellant/claimant was admitted in the hospital on 22.05.2011 and remained hospitalized till 08.06.2011. He was charged Rs.16,000/- vide bill Ex.P12. He tendered X-ray receipts Ex.P13 to Ex.P15, medicines bills Ex.P16 to Ex.32. He further stated that claimant was operated upon and advised rest for one month and besides discharge card Ex.P11 and certificate Ex.P33.

COMPENSATION ASSESSED BY THE MACT

Learned Tribunal after considering all the bills which were exhibited in the present case granted compensation to the tune of Rs.54,106/- on the following heads :-

Hospitalization etc.	Rs.39,106/-
Pain and suffering	Rs.10,000/-
Composite compensation for diet, transportation and attendant	Rs.5,000/-
Total	Rs.54,106/-

REASSESSED COMPENSATION

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

The fact of the accident is admitted and proved. The appellant suffered injuries on account of rash and negligent driving of respondent No.1.

Keeping in view the hospitalization of 20-22 days of the claimant/appellant, the compensation is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
1.	Hospitalization	Rs.39,106/-
2.	Pain and suffering	Rs.30,000/-
3.	Composite compensation for diet, transportation and attendant	Rs.20,000/-
	Total compensation awarded:-	Rs.89,106/-
	Enhanced amount of compensation	[(Rs.89,106/-)- (Rs.54,106/-)] =Rs.35,000/-

The enhanced amount of compensation of Rs.35,000/- 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

17.09.2015
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