

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

FAO No.4164 of 2013 (O&M)

Date of decision: 06.10.2015

Pratap Singh

....Appellant

Versus

Inderjit and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ram Bilas Gupta, Advocate
for the appellant.

None for respondent No.2.

Mr. Aseem Aggarwal, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 04.03.2013, on account of injuries sustained by Pratap Singh in a motor vehicular accident which took place on 10.06.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.06.2009 at about 05:30 p.m., Pratap Singh along with his elder brother Khushal was going from Faridabad to Delhi on motorcycle bearing registration No.D3S-BN-1759, which was being driven by Khushal at a

moderate speed on the correct side of the road, whereas the appellant was travelling on the said motorcycle as a pillion rider. When they crossed Badkhal bridge, Faridabad and reached near Gate No.1, Sector 21-A, Faridabad, in the meantime, from the backside, a Maruti Alto Car bearing registration No.DL-3C-AZ-2218 came in a rash and negligent manner without blowing any horn and struck against the aforesaid motorcycle. Resultantly, Pratap Singh fell down on the road and sustained multiple and grievous injuries all over his body including head injury, injuries on his face on right side and right eye, also. Pratap Singh was immediately brought to B.K. Hospital, Faridabad, where he was given treatment and his MLR was prepared. However, due to his serious injuries, he was taken to Survodaya Hospital and Research Centre, YMCA Road, Sector 8, Faridabad, on the same day where he remained admitted as an indoor patient w.e.f. 10.06.2009 to 13.06.2009.

In this regard, FIR No.193 dated 10.06.2009, under Sections 279, 337 IPC, in respect of the accident in question, was got registered at Police Station NIT, Faridabad, on the statement of Khushal.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Pratap Singh appeared as PW-2 and

tendered his affidavit Ex.PW-2/A to prove the accident in question. PW-1-Khushal also tendered his affidavit Ex.PW1/A to corroborate the testimony of PW-2 and he proved the copy of FIR Ex.P1. Neither the driver of the offending vehicle nor any other person claiming to have witnessed the accident appeared in the witness-box to rebut the statement of PW-1 and PW-2 and the Tribunal has returned the finding on Issue No.1 in favour of the claimant-appellant.

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 Inderjit-respondent No.1. The claim petition was accepted by the Tribunal and a sum of Rs.78,210/- was awarded as compensation on account of injuries sustained by Pratap 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.	Expenses incurred on treatment/medicines	Rs.24709.87 (rounded off to Rs.24,710/-)
2.	Special diet, transportation and attendant charges	Rs.20,000/-
3.	Pain and agony	Rs.20,000/-
4.	Loss of income	Rs.13,500/-
5.	Total	Rs.78,210/-

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 deceased has sustained injuries as a result of the accident.

While assessing the compensation of Rs.24,709.87/-, the Tribunal has not taken into consideration the request of the hospital for depositing the advance of Rs.7,000/- (Ex.P-12), though, they were not duly proved. Thus, this finding does not require any interference by this Court. However, keeping in view the fact that the accident took place in the year 2009, the amount of compensation in respect of pain and sufferings, special diet, transportation and attendant charges are being re-assessed/modified as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Pain and sufferings	Rs.35,000/-
(ii)	Special diet, transportation and attendant charges	Rs.33,500/- (Rs.13,500/- + Rs.20,000/-)
(iii)	Medical expenses	Rs.24,710
(iii)	TOTAL COMPENSATION TO BE AWARDED	Rs.93,210/-
(iv)	Enhanced amount of compensation	(Rs.93,210/-) – (Rs.78,210/-) =Rs.15,000/-

The enhanced amount of compensation of **Rs.15,000/-** 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

06.10.2015

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