

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

**FAO No.4644 of 2013 (O&M)
Date of decision:21.12.2015**

Devender

....Appellant

Versus

Rajesh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sarvjit Singh Khurana, Advocate,
for the appellant.

Mr.Rajbir Singh, 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, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 05.07.2013, on account of injuries received by him in a motor vehicular accident which took place on 29.04.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.04.2011, at about 9.00 a.m., claimant-appellant Devender was going to village Baldhan Kalan on a motorcycle bearing registration No. HR-36-M-4623 for electric fitting. When he reached near Khola Brick Kiln Udyog on Berli Baldhan Kalan road, one Krishan son of Abhey Singh met him. The claimant stopped his motorcycle and started talking with him. In the meantime, a motorcycle bearing registration No.HR-36-L-9446, being driven by Rajesh-respondent

No.1 in a rash and negligent manner and at a high speed, came from Berli Kalan side and struck against the motorcycle of claimant-appellant, as a result of which, the claimant fell on the road and received serious and grievous injuries. With regard to the accident, FIR (Ex.PW2/B) was registered at against respondent No.1. 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 had taken place on account of rash and negligent driving of offending motorcycle by respondent No.1, which resulted into multiple injuries to the claimant-appellant and thus, returned the finding on issue No.1 in favour of the claimant. This finding has been rightly based on the deposition of claimant, who appeared in the witness box as PW-2 and reiterated his stand taken in the claim petition. As per evidence adduced by the claimant, he remained admitted in Dr. Birendra Hospital, Reri w.e.f. 29.04.2011 to 04.05.2011. Ultimately, the claim petition was accepted and the claimant-appellant was found entitled to compensation as under:-

- | | | |
|------------------------------------|---|-------------|
| 1. Medical Expenses | : | Rs.38,223/- |
| 2. Better diet | : | Rs.5,000/- |
| 3. Pain & Suffering | : | Rs.5,000/- |
| 4. Transportation Charges | : | Rs.5,000/- |
| 5. Loss of income being bed ridden | : | Rs.20,000/- |

Hence, the claimant-appellant was found entitled to compensation of Rs.73,223/- along with interest @ 6% per annum from the date of accident till payment. 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.

In the peculiar facts and circumstances of the case, the compensation is being reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Medical Expenses	Rs.38,223/-
(ii)	Better/special diet	Rs.10,000/-
(iii)	Pain & Sufferings	Rs.10,000/-
(iv)	Transportation Charges	Rs.10,000/-
(v)	Loss of income being bed ridden.	Rs.20,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.88223/-
(vii)	Enhanced amount of compensation	Rs.88,223 – 73,223 = 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

21.12.2015
ajp