

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

**FAO No.1189 of 2011 (O&M)
Date of decision: 10.07.2017**

Vikas Kumar

....Appellant

Versus

Raj Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellants.

Mr. Suman Jain, 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 (Fast Track Court), Ambala (hereinafter referred to as 'the Tribunal') vide award dated 03.01.2008, on account of injuries suffered by him (claimant) in a motor vehicular accident which took place on 17.10.2006.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.10.2006, at about 7.40 P.M., Vikas-appellant along with Suleman (since deceased) was going from Naraingarh towards village Firzepur Katkhar on a motorcycle bearing registration No. HR-02-A-3303. The said motorcycle was was being driven by the Suleman, whereas appellant-claimant was a pillion rider. One Gulamudeen was also going on his motorcycle bearing registration No. HR-04-A-7268. When they reached near the bus-stand of village Okhala, a truck bearing registration No. HR-37-8923, being driven by Raj Kumar-

respondent No.1 in a rash and negligent manner, came from the side of the Naraingarh at a very high speed and hit the motorcycle of Suleman from its rear side, as a result of which, Suleman fell down in the middle of the road and died at the spot. Vikas-appellant also sustained multiple injuries on his body. One Rakesh son of Raghubir, who was standing at the bus-stand also received multiple injuries. After the accident, truck driver ran away from the place of occurrence along with his vehicle. With regard to the accident, FIR, Ex.P3, was registered against respondent No.1 on the statement of Gulamudeen (PW-2). 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 Suleman died because of multiple injuries sustained in the accident and the cause of death was determined to be head injury, which was ante mortem in nature and sufficient to cause death in the ordinary course of nature. This finding was given on the basis of deposition of Gulamdeen (PW-2), who was an eye witness of the accident. While assessing compensation, the Tribunal has observed that as per Bill, Ex.P5, the claimant had spent an amount of Rs.4600/-. Further, as bills Ex.P6 to Ex.P11, he had incurred a sum of Rs.5032/-. Thus, the claimant had spent a total sum of Rs. 9632/- ($4600+5032 = 9632$) on his medical treatment, which was rounded off to Rs.10,000/-. In addition to it, Rs.5000/- were awarded towards pain & suffering and Rs.2000/- as loss of work for the period during which, the claimant remained bed ridden. The claimant was found entitled to total compensation of Rs.17,000/-. However, 10% of the said amount was reduced on account of the fact that some contribution was

made by the deceased in causing the accident in question. Ultimately, a sum of Rs.15,300/- was awarded in favour of the claimant along with interest @ 7.5% per annum from the date of filing of the petition till realization. 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 claimant-appellant has suffered injuries as a result of the accident. Vikas Kumar, injured claimant, had appeared in the witness box as PW-3 and deposed that he was shifted to Civil Hospital, Naraingarh in an injured condition, from where, he was referred to PGI, Chandigarh. He also got treatment from Jindal Hospital, Jagadhri. Dr. Yogesh Jindal (PW-4) treated the claimant from 19.10.2006 to 23.12.2006 and charged Rs.4600/- vide bill Ex.P5. Further, as per bills Ex.P6 to Ex.P11, the claimant had spent Rs.5032/- on his treatment. The claimant also suffered pain and suffering on account of the aforesaid accident. Accordingly, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Compensation on account of medical treatment as per medical bills	Rs.10,000/-
(ii)	Pain and suffering	Rs.5000/-
(iii)	Diet charges	Rs.5000/-
(iv)	Loss of work	Rs.2000/-
(v)	Transportation charges	Rs.2500/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.24,500/-

(vii)	Enhanced amount of compensation	Rs.24,500 – 15,300 = Rs.9200/-
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The enhanced amount of compensation of **Rs.9200/-** 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

10.07.2017
ajp