

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

FAO No. 1984 of 2012 (O&M)

Date of decision: 17.08.2017

Vikas Nagpal

...Appellant

Vs.

Mubarik and Ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashish Gupta, Advocate
for the appellant.

None for respondents No. 1 and 2.

Mr. M.B. Jain, Advocate
for respondent No. 3.

RITU BAHRI, J.(ORAL)

Present appeal has been preferred by the claimant-appellant has (for short 'the appellant'), against award dated 18.03.2011 passed by Ld. Motor Accident Claims Tribunal, Nuh (for short, 'the Tribunal') vide which compensation to the tune of ₹47,000/- was awarded to the claimants on account of injury of Vikas Nagpal.

FACTS NOT IN DISPUTE

On 15.05.2006 at about 8.30 AM, the petitioner was going to Raman Munjal Memorial Hospital from his house at Tauru by motorcycle bearing registration No. HR-29-L-2509 to give food to his ailing father who was admitted in Raman Munjal Hospital. He was driving his motorcycle at a slow and moderate speed on his correct left hand side of the road. A Maruti van was also going ahead of the motorcycle of the petitioner. At about 9.00 AM, when the petitioner reached near Kachcha Rasta toward left side of the

road near to Nizampur Nadi in the area of village Nizampur on Tauru-Bhiwadi Road, in the meantime offending Maruti Van being driven by respondent No. 1 at very fast speed came from kachcha rasta and in the process of crossing the Maruti van going ahead to the motorcycle of the petitioner, hit against the motorcycle of the petitioner. The registration number of the said Maruti van was HR-30-B-3455, which was mentioned in the FIR as HR-05-G-5072.

COMPENSATION ASSESSED BY MACT

The Tribunal has held that the petitioner has appeared as PW-1 and produced the medical report Ex.P-3. According to the medical report appellant has proved medical bills of total amount of ₹ 32,000/- which has been spent on pre-treatment of fracture and due to which rod was also inserted in his left leg. Petitioner had also spent some amount on special diet and transportation, attendant, so, on these counts also petitioner was awarded amount of ₹15,000/-. In this way petitioner is awarded total amount of ₹ 47,000/- along with pendente lite and future interest @ 6% per annum.

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured

with the Insurance Company. Counsel for the appellant states that as per medical report, fracture of left femur and no amount has been given with regard to disability suffered by him. He has also placed disability certificate dated 07.09.2011 as additional evidence whereas Medical Board constituted by Civil Surgeon, Mewat, had assessed 8% permanent disability and as per medical report (Annexure P-3) a rod was inserted, In view of the above, compensation has to re-assessed as under:-

Sr. No.	Heads of compensation	Amount
1	Medical Bills	₹32,000/-
2	Special diet, transportation and attendant	₹15,000/-
3	Pain and Suffering	₹15,000/-
4	Loss of Income	₹ 5,000/-
	Total	₹67,000/-
	Enhanced compensation	₹67,000/-- ₹ 47,000/- ₹20,000/-

Resultantly, the enhanced amount of compensation of ₹ 20,000/- shall be payable within a period of forty five days 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 a 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. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

August 17, 2017
Poonam (II)

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No