

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

Date of decision: 06.11.2017

1. FAO No.6590 of 2011 (O&M)

Naresh Sharma

....Appellant

Versus

Nirmal Singh and others

....Respondents

2. FAO No.6591 of 2011

Smt. Janak Sharma

....Appellant

Versus

Nirmal Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Krishan Singh, Advocate,
for the appellant(s).

Mr. Bunny Thomas, Advocate,
for Mr. D.K. Dogra, Advocate,
for respondent No.3-Insurance Company

RITU BAHRI J. (Oral)

CM No.26543-CII of 2011

In view of the averments mentioned in the application, same is
allowed and delay of 288 days in filing of the appeal is condoned.

FAO Nos.6590 & 6591 of 2011

This judgment will dispose of FAO Nos.6590 & 6591 of 2011
together as both have arisen out of same vehicular accident and common

questions of law and facts are involved in both the appeals.

Both these appeals have been filed by claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 30.09.2010, on account of injuries received by them in a motor vehicular accident which took place on 21.04.2009.

Brief facts of the case are that on 21.04.2009, Naresh Sharma (appellant in FAO-6590-2011) along with his wife Smt. Janak Sharma (appellant in FAO-6591-2011) was going from Sanatan Dharam Mandir towards his residence at Yamuna Nagar on a motorcycle bearing registration No. HR-02-U-1787. Naresh Sharma was driving the said motorcycle at a moderate speed by observing all the traffic rules and Smt. Janak Sharma was a pillion rider. At about 9.30 P.M., when they reached at a turning near Arya Smaj Mandir, Yamuna Nagar, a car bearing temporary No. HR-99-CYHQTP-8620 being driven by Nirmal Singh-respondent No.1 in a rash and negligent manner came and struck against the motorcycle, as a result of which, both the occupants of the motorcycle fell down on the road and sustained multiple grievous injuries. Their motorcycle was also damaged in the accident. Injured-appellants were taken to the hospital with the help of Rajesh Tyagi, Ravi Walia and other persons. With regard to the accident, FIR No.254 dated 22.04.2009, under Sections 279/337 IPC was registered at Police Station, Yamuna Nagar, against respondent No.1. Consequently, the claimant-appellants filed separate claim petitions before the Tribunal.

Both the claim petitions were decided together by the Tribunal. On the basis of evidence led by the parties, Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of

offending car by its driver i.e. respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of injured-claimants Naresh Sharma (PW-5) and Smt. Janak Sharma (PW-6). Further, the claimants have proved on record FIR Ex.P82, which was promptly got registered by Naresh Sharma-injured against respondent No.1-driver. Claimants also proved report under Section 173 Cr.P.C Ex.P80 and site plan Ex.P81. Ultimately, the claim petitions were accepted by the Tribunal by passing a common award and compensation was awarded as under:-

Compensation to Naresh Sharma (appellant in FAO-6590-2011)

Medical treatment	-	Rs.18,000/-
Permanent disability	-	Rs.12,000/-
Transport expenses	-	Rs.45,000/-
attendant charges, special diet, loss of earnings during the period of medical treatment and pain & sufferings.		
Total	-	Rs.75,000/-

Compensation to Smt. Janak Sharma (appellant in FAO-6591-2011)

Medical treatment	-	Rs.15,000/-
Permanent disability	-	Rs.12,000/-
Transportation expenses	-	Rs.40,000/-
attendant charges, special diet, loss of earnings during the period of medical treatment and pain & sufferings.		
Total	-	Rs.67,000/-

Hence, claimant-Naresh Sharma was awarded a total compensation of Rs.75,000/- and claimant-Smt. Janak Sharma was awarded

compensation to the tune of Rs.67,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeals.

A perusal of the impugned award shows that all the medical bills have been reimbursed to claimant-appellants. On account of disability to the extent of 4% suffered by claimant-Naresh Sharma, a sum of Rs.12,000/- has been awarded to him. In the case of claimant-Smt. Janak Sharma, Rs.12,000/- have been awarded on account of 4% permanent disability suffered by her. They remained admitted in the hospital for four days. After going through the impugned award, this Court is of the view that compensation in favour of claimant-appellants has rightly been awarded by the Tribunal. Reasonable calculations have been made under all the heads and no case for enhancement is made out. No illegality, much less perversity, has been found in the impugned award warranting interference by this Court. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, both these appeals i.e. FAO No.6590 of 2011 and FAO No.6591 of 2011 are dismissed.

(RITU BAHRI)
JUDGE

06.11.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No