

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

**FAO No.10416 of 2014 (O&M)
Date of decision: 23.08.2017**

Ritual

....Appellant

Versus

Azad Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vishal Nehra, Advocate,
for the appellant.

Mr. D.K. Prajapati, Advocate,
for Mr. R.S. Madan, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.28734-CII of 2014

In view of the averments mentioned in the application, same is allowed and delay of 491 days in filing of the appeal is condoned.

FAO No.10416 of 2014

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 13.12.2012, on account of injuries received by him in a motor vehicular accident which took place on 25.02.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.02.2010, claimant-

appellant Ritul (minor) along with her grandmother Mewa Devi and other persons was going from village Ridhana to Tohtak in a bus bearing registration No. HR-46-B-2944. The said bus was being driven by its driver at a normal speed. At about 7.00 A.M., when they reached near the fields of Satpal Namberdar of their village, a truck bearing registration No. HR-67-B-2719 being driven by respondent No.1 in a rash and negligent manner, came from the side of village Dhanana and struck against the bus, as a result of which, all the occupants, including claimant-injured, suffered multiple grievous injuries. The injured were shifted to PGIMS, Rohtak. With regard to the accident, FIR No.32 dated 25.02.2010, under Sections 279, 337 and 304-A IPC was registered at Police Station, Baroda. 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 been caused on account of rash and negligent driving of offending vehicle by its driver-respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Seema, mother of appellant (PW-5), Bijender Singh (PW-2) and Devender Singh (PW-1). Further, the claimant(s) had proved on record FIR Ex.P1, which was registered against respondent No.1. Claimant-appellant was aged about 10 months at the time of death/accident. On the basis of evidence available on record, the claimant was found entitled to a total compensation of Rs.25,000/- along with interest at the rate of 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 received injuries as a result of the accident. At the time of accident, claimant was only 10 months old. As per the deposition of Seema (PW-5), claimant-appellant had suffered multiple grievous injuries and his left hand was broken below the elbow. He was getting treatment from PGIMS, Rohtak. However, no doctor was examined in order to prove the nature and extent of injuries suffered by claimant-appellant. Seema, mother of claimant, while appearing as PW-5 proved on record OPD Card Ex.P2, copy of MLR Ex.P3 and discharge card Ex.P4. A perusal of these documents shows that Ritul-claimant had sustained two swelling injuries and had been diagnosed to have suffered fracture of BBFA left. He was discharged from the hospital on 25.02.2010 after applying plaster at PGIMS, Rohtak. Keeping in view the peculiar circumstances, in which the injured-claimant had been put, the compensation is required to be enhanced. Hence, the compensation is hereby re-assessed and a lump sum amount of Rs.50,000/- is awarded to claimant-appellant on account of injuries received by him in the aforesaid accident.

The enhanced amount of compensation of **Rs.25,000/- (i.e. 50,000 – 25,000)** shall be payable to the appellant 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

23.08.2017
ajp

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