

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

**FAO No.3374 of 2013 (O&M)
Date of decision: 23.08.2017**

Devender

....Appellant

Versus

Smt. Raj Bala and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. D.K. Prajapati, Advocate,
for Mr. R.S. Madan, Advocate,
for respondent No.5-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, 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 (Devender) along with other persons was going from village Ridhana to Rohtak 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 Devender Singh-claimant (PW-1) and the fact that FIR Ex.P1 was registered against respondent No.1. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1	Medical Bills	Rs.36,000/-
2	Hospitalization including attendant expenses etc.	Rs.5,000/-
3	Pain and sufferings	Rs.5,000/-
4	Transportation, special diet etc.	Rs.5,000/-
5	Disability	Rs.20,000/-
6	Loss of income	Rs.15,000/-
	Total	Rs.86,000/-

Hence, the claimant was found entitled to a total compensation of Rs.86,000/- 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 has received injuries as a result of the accident. Dr. S.P. Sharma, Medical Officer, General Hospital, Sonapat (PW-9), deposed that he along with Dr. Sukhbir and Dr. B.R. Jawa had assessed the disability of Devender (appellant) and found that he was having 10% disability on account of compression fracture of D.12 vertebra and osseo arthritics of cervical vertebra with pain. He proved the disability certificate as Ex.PW9/B. He further deposed that due to this disability, the claimant might have difficulty in performing, running, jumping and forward bending actions. There is no direct evidence with regard to the income of injured-appellant. The accident took place in the year 2010. As per minimum wages, income of claimant is being assessed as Rs.4600/- per month and 50% of this amount is added as future prospects, which comes to Rs.6900/- per month. At the time of accident, claimant was aged about 25 years. Since, he has suffered disability to the extent of 10%, compensation on account of disability comes to Rs.1,49,040/- (690 x 12 x 18). 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 as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Medical Bills	Rs.36,000/-
(ii)	Hospitalization including attendant expenses etc.	Rs.5,000/-
(iii)	Pain and sufferings	Rs.20,000/-
(iv)	Transportation, special diet etc.	Rs.15,000/-
(v)	Disability	Rs.1,49,040/-
(vi)	Loss of income	Rs.25,000/-

(vii)	TOTAL COMPENSATION AWARDED	Rs.2,50,040/-
(viii)	Enhanced amount of compensation	Rs.2,50,040 – 86,000 = Rs.1,64,040/-

The enhanced amount of compensation of **Rs.1,64,040/-** 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

23.08.2017
ajp

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