

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

FAO No.1789 of 2015 (O&M)

Date of decision: 07.11.2017

Sandeep Kumar

.....Appellant

Versus

Rajesh Kumar and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gurinder Pal Singh, Advocate,
for the appellant.

Mr. Raman Sharma, Advocate,
for respondent No.1.

Mr. Deepak Bansal, Advocate,
for respondent No.2.

Mr. Amit Kundra, Advocate,
for respondent No. 3-Insurance Company.

Ritu Bahri, J.

CM-5236-5237-CII-2015

In view of the averments mentioned in the applications, same are allowed and delay in filing and re-filing of the appeal is condoned.

FAO-1789-2015

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 17.07.2013 on account of injuries suffered by him in a vehicular accident, which took place on 06.02.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.02.2011, at about 8.00 a.m.,

Sandeep Kumar-appellant along with his cousin Ramdhan was going on a

motorcycle bearing registration No. HR-36-M-7175 in order to purchase articles for the marriage of his uncle's daughter. The said motorcycle was being driven by Ramdhan. When they reached near Nai Wali Chowk, in the meantime, a scooty bearing registration No. HR-36-L-2864, being driven by Rajesh Kumar-respondent No.1 in a rash and negligent manner, came from backside and struck against the motorcycle of appellant, as a result of which, he fell down on the road and sustained injury on his leg. Injured-appellant was taken to Birendra Hospital by his cousin-Ramdhan for treatment. The accident had taken place due to the rash and negligent driving of the offending scooty by respondent No.1. With regard to the accident, FIR No.35 dated 06.02.2011, under Sections 279, 337, 338 IPC was registered at Police Station, City Rewari. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.1 in favour of the claimant by observing that the accident took place on account of rash and negligent driving of offending vehicle bearing registration No.HR-36-L-2864 by Rajesh Kumar-respondent No.1. This finding has been given in view of the fact that FIR, Ex.PA, was registered against Rajesh Kumar, who was driving the offending vehicle. As per disability certificate (Ex.PC), the claimant had suffered 2% disability and was operated on 06.02.2011. Satish Kumar (PW-2), who was working as record-keeper in Birendra Hospital, Rewari, stated that the claimant was admitted in the hospital on 06.02.2011 and was discharged on 07.02.2011. Vide bill, Ex.P2, the hospital had charged Rs.24,200/- on account of treatment of claimant. As per bill, Ex.P3, the claimant had spent Rs.6203/-

on his medicines. After going through the entire evidence, the compensation was assessed as under:-

(i)	Compensation on account of expenses for getting medical treatment which includes hospitalisation charges	Rs.30,403/-
(ii)	Compensation on account of pain and sufferings, special diet, attendant, loss of income etc.	Rs.10,000/-
(ii)	Compensation on account of disability to the extent of 2%	Rs.4000/-
	Total	Rs.44,403/-

The aforesaid compensation was ordered to be paid along with interest at the rate of 6% per annum from the date of filing of the petition till final 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 the claimant-appellant has received injuries as a result of the accident. After going through the impugned Award, this Court is of the view that compensation under the head “pain and sufferings, special diet, attendant and loss of income” has been awarded on the lower side. 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	CALCULATION
(i)	Compensation on account of expenses for getting medical treatment and hospitalisation charges etc.	Rs.30,403/-

SR. No.	HEADS	CALCULATION
(ii)	Compensation on account of disability to the extent of 2%	Rs.4000/- (Rs.2000/- per percent)
(iii)	Compensation on account of pain and sufferings, special diet, attendant, loss of income etc.	Rs.35,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.69,403/-
	Enhanced amount of compensation	Rs.69,403 – 44,403 = Rs.25,000/-

The enhanced amount of compensation of **Rs.25,000/-** 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.

07.11.2017
ajp

(RITU BAHRI)
JUDGE

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