

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

**FAO No.4507 of 2013
Date of decision: 20.12.2017**

Naveen Kumar

....Appellant

Versus

Sukhbir and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ved Parkash, Advocate,
for the appellant.

Mr. Ravinder Hooda, Advocate,
for respondent Nos. 1 and 2.

Mr. Suman Jain, Advocate,
for respondent No.3-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, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 29.05.2013, on account of injuries received by him in a motor vehicular accident which took place on 07.09.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.09.2009, claimant-appellant was coming from village Baslambi towards his house on a motorcycle bearing registration No. HR-3040. At about 6.30 P.M., when he reached near the Ware House (Kherki Duala Wala), Baslambi, a truck

bearing registration No. HR-38-P-1866 being driven by Sukhbir-respondent No.1 in a rash and negligent manner, came from the side of Jamalpur and struck against the motorcycle, as a result of which, claimant-appellant fell down on the road and sustained grievous multiple injuries all over his body. After the accident, respondent No.1 fled from the place of accident along with his vehicle, however, claimant managed to note down the registration number of said vehicle. Claimant was taken to Pushpanjali Hospital, Civil Lines, Gurgaon. With regard to the accident, FIR No.163 dated 07.09.2009, under Sections 279/337 IPC was registered at Police Station, Bilaspur, Gurgaon against the driver of offending vehicle. 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 truck by its driver-respondent No.1 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Naveen Kumar-claimant (PW-1). Moreover, claimant had also proved on record FIR No.163 dated 12.09.2009, which was registered against the driver of offending vehicle. Ultimately, the claim petition was accepted by the Tribunal and compensation was awarded as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Loss of earnings on account of 10% permanent disability or on account of amputation of toe of right foot	Rs.1,29,600/-
2.	Medical expenses, special diet etc.	Rs.2,55,000/-
3.	Pain, sufferings and trauma	Rs.10,000/-

	Total	Rs.3,94,600/-
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Hence, the claimant was found entitled to a total compensation of Rs.3,94,600/- 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.

The claimant-appellant is seeking enhancement of compensation on account of loss of income due to permanent disability. As per disability certificate Ex.P1, the appellant had suffered 19% disability in the accident in question, which is permanent in nature. However, functional disability of his entire body has been assessed to the extent of 10%. Claimant was 21 years of age at the time of accident. His income has been taken as Rs.6000/- per month i.e. Rs.72,000/- per annum. Keeping in view the peculiar circumstances of the case, it would be just reasonable if 40% addition in the income of claimant is granted towards future prospects. By doing so, his income would come to Rs.1,00,800/- (Rs.72,000/- + Rs.28,800/-). To assess the loss of earning capacity, 10% of the same is to be calculated, which comes to Rs.10,080/- per annum (1,00,800 x 10/100). Since the claimant was 21 years of age at the time of accident, multiplier of 18 is to be applied. By applying the multiplier, compensation under this head comes to Rs.1,81,440/- (Rs.10,080 x 18). Compensation under the other heads i.e. medical expenses, special diet, pain & sufferings etc. has rightly been assessed by the Tribunal.

Hence, the compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Loss of earnings on account of 10% permanent disability	Rs.1,81,440/-
(ii)	Medical expenses, special diet etc.	Rs.2,55,000/-
(iii)	Pain, sufferings and trauma	Rs.10,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.4,46,440/-
(v)	Enhanced amount of compensation	Rs.4,46,440 – 3,94,600 = Rs.51,840/-

The enhanced amount of compensation of **Rs.51,840/-** 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

20.12.2017
ajp

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