

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

**FAO No.5382 of 2013 (O&M)
Date of decision: 04.12.2017**

Daljit Singh

....Appellant

Versus

Hargobind Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Gurjit Kaur, Advocate,
for Mr. Harinder Singh Sandhu, Advocate,
for the appellant.

Mr. Suvir Dewan, Advocate,
for respondent No.2-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, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 22.05.2013, on account of injuries received by him in a motor vehicular accident which took place on 18.12.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 18.12.2010, claimant-appellant (Daljit Singh) along with his friend Bhupinder was going on a motorcycle bearing registration No. HR-05-M-2981. The motorcycle was being driven by claimant himself and Bhupinder was a pillion rider. At about 8.30 P.M., when they reached near the railway over-bridge on Kaithal Road, Karnal, a car bearing registration No. HR-02-M-0482 being driven by

Hargobind Singh-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, both the occupants of motorcycle sustained serious and grievous injuries. Claimant was taken to General Hospital, Karnal, from where he was referred to Virk Hospital, Karnal. He was operated upon in the hospital and a rod was inserted. With regard to the accident, FIR No.1068/10, under Sections 279/337/338 IPC was registered at Police Station, City Karnal against respondent No.1. 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 taken place on account of rash and negligent driving of offending car 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 Daljit Singh-claimant (PW-1) and the fact that FIR Ex.P15 was registered against respondent No.1. Further, the claimant had proved copy of MLR as Ex.P16. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Loss of income during treatment	Rs.12,600/-
2.	Medical expenses	(i) Medicines : Rs.22,053/- (ii) Hospital Charge : Rs.12,500/-
3.	Attendant Charges	Rs.2,000/-
4	Special diet	Rs. 3,000/-
5	Transportation	Rs.500/-
6	Pain & Sufferings	Rs.15,000

7	Loss of earning capacity due to disability to the extent of 6% qua limb and 3% qua body	Rs.27,216/-
	Total	Rs.92,369/-

Hence, the claimant was found entitled to a total compensation of **Rs.92,369/-** 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. There is no dispute with regard finding given by the Tribunal on issue No.1 as FIR Ex.P15 was immediately got registered against respondent No.1.

In the absence of any documentary evidence, income of claimant has been rightly assessed as Rs.4200/- per month as per the minimum wages prevalent at that time. Dr. Vinod Kamal (PW-2) proved the disability certificate as Ex.P1. During cross-examination, he admitted that claimant has suffered disability to the extent of 3% qua the whole body. In view of the said fact, loss of future earning of the claimant has been rightly assessed to the tune of Rs.27,216/-. 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 (Rs.)
1.	Loss of income during treatment	Rs.12,600/-

2.	Medical expenses	(i) Medicines : Rs.22,053/- (ii) Hospital Charge : Rs.12,500/-
3.	Attendant Charges	Rs.10,000/-
4	Special diet	Rs. 10,000/-
5	Transportation	Rs.500/-
6	Pain & Sufferings	Rs.25,000
7	Loss of earning capacity due to disability to the extent of 6% qua limb and 3% qua body	Rs.27,216/-
	TOTAL COMPENSATION AWARDED	Rs.1,19,869/-
	Enhanced amount of compensation	Rs.1,19,869 – 92,369 = Rs.27,500/-

The enhanced amount of compensation of **Rs.27,500/-** 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

04.12.2017
ajp

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