

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5770 of 2015 (O&M)

Date of Decision: 29.09.2017

Kanwar Singh

.....Appellant

Vs.

Mukesh Kumar and Ors

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.MPS Chandel, Advocate, for the appellant.

Mr.Anoop Kumar Yadav, Advocate, for
respondent No.2.

Mr.Harsh Aggarwal, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 02.05.2015, passed by the learned Motor Accident Claims Tribunal, Narnaul(for short, 'the Tribunal') vide which compensation to the tune of Rs.1,23,700/- was awarded to the claimant on account of injuries suffered by him.

FACTS NOT IN DISPUTE

On 01.11.2013, the claimant was going on his cycle from Narnaul towards his village following the rules of traffic at moderate speed and when he reached near village Patikra, in the meantime, a truck troll No.HR-66C-0151 being driven by respondent No.1 in a zig-zag and rash and negligent manner came without following the rules of the road and hit his cycle. As a result of which, claimant/injured suffered multiple and grievous injuries.

The present accident had taken place due to rash and negligent driving of vehicle No.HR-66C-0151 by respondent No.1. Thus all the respondents were liable to pay compensation to the petitioner jointly and severally.

COMPENSATION ASSESSED BY MACT

As per disability certificate Ex.PW2/A, the claimant found permanent disable 10% due to traumatic stiffness with pain left ankle and he remained in hospital for a month. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Medical bills as per bill Ex.P6 to Ex.P10.	Rs.93,708/-
2.	Compensation on disability qua 10%	Rs.20,000/-
3.	Pain and suffering, special diet, loss of income, service charges and transportation.	Rs.10,000/-
	Assessed compensation	Rs.1,23,708/-
	Rounded off	Rs.1,23,700/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "Raj Kumar Vs. Ajay Kumar (2011) 1 SCC 343". On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured

with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Medical bills as per bill Ex.P6 to Ex.P10.	Rs.93,708/-
2.	Compensation on disability qua 10%	Rs.20,000/-
3.	Pain and suffering	Rs.10,000/-
4.	Special diet, transportation	Rs.10,000/
4.	Loss of income	Rs.25,000/-
	Reassessed compensation	Rs.1,58,708/-
	Enhanced compensation	Rs.1,58,708/- ----- Rs.1,23,700/- =Rs.35,008/-

Resultantly, the enhanced amount of compensation of Rs.35,008/- shall be payable within a period of forty five days 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 a 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. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)

JUDGE

29.09.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No