

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

**FAO No.7557 of 2014 (O&M)
Date of decision: 07.12.2017**

Manisha Sharma

....Appellant

Versus

Bhaghlu Thakur and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Goopal Sharma, Advocate,
for the appellant.

Mr. Sachin Ohri, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.20210-20211-CII of 2014

For the reasons mentioned in the applications, same are allowed
and delay in filing and re-filing of the appeal is condoned.

FAO No.7557 of 2014

This appeal has been filed by the claimant-appellant seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Rewari (hereinafter referred to as 'the Tribunal') vide award dated
11.11.2013, on account of injuries received by her in a motor vehicular
accident which took place on 27.06.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.06.2011, at about 7.30

Kishore) was going from her village to Bhiwadi on a motorcycle bearing registration No.HR-34-B-5564. When they reached near Banipur Chowk on National Highway No.8, a truck bearing registration No.HR-55-J-0827 being driven by Bhaghlu Thakur-respondent No.1 in a rash and negligent manner came and hit the motorcycle from behind, as a result of which, claimant-appellant along with her husband fell down from the motorcycle and received multiple and grievous injuries on her face, shoulder, left knee and other parts of the body. She was taken to CHC, Bawal by her husband. With regard to the accident, FIR No.99 dated 27.06.2011, under Sections 279/337 IPC was registered at Police Station, City, Rewari 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 vehicle i.e. truck bearing registration No. HR-55-J-0827 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 Manisha Sharma-claimant (PW-1) and eye witness Brij Kishore (PW-4). Moreover, FIR Ex.PW2/A was registered against the driver-respondent No.1 on the basis of statement made by Brij Kishore, husband of claimant. The claimant had proved on record final bills Ex.P-1, OPD bills Ex.P-2 to Ex.P-19 and medical bills as Ex.P-23 to Ex.P-28, as per which, she had spent Rs.1,00,069/-. She remained admitted in the hospital from 27.06.2011 to 04.07.2011. The compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Compensation on account of expenses for getting medical treatment, which includes hospitalization charges, expenses in purchasing medicines etc.	Rs.1,00,069/-
2.	Compensation on account of pain and sufferings, special diet, attendant, transportation, loss of income etc.	Rs.20,000/-
	Total	Rs.1,20,069/-

Ultimately, the claimant was found entitled to a total compensation of Rs.1,20,069/- along with interest at the rate of 7% 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. Learned counsel for claimant-appellant does not dispute the finding given by the Tribunal on issue no.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver-respondent No.1. Claimant-appellant is seeking enhancement as she had remained admitted in Paras Hospital, Gurgaon w.e.f. 27.06.2011 to 04.07.2011, which is a private hospital.

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.)
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(i)	Compensation on account of expenses for getting medical treatment, including hospitalization charges, expenses in purchasing medicines etc.	Rs.1,00,069/-
(ii)	Compensation on account of pain and sufferings, special diet, attendant, transportation, loss of income etc.	Rs.50,000/-
(iii)	TOTAL COMPENSATION AWARDED	Rs.1,50,069/-
(iv)	Enhanced amount of compensation	Rs.1,50,069 – 1,20,069 = Rs.30,000/-

The enhanced amount of compensation of **Rs.30,000/-** 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.

(RITU BAHRI)
JUDGE

07.12.2017

ajp

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