

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

**FAO No.9331 of 2014 (O&M)
Date of decision: 08.12.2017**

Ram Pyari

....Appellant

Versus

Ram Kishan and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manish Dadwal, Advocate,
for the appellant.

Ms. Vandana Malhotra, Advocate,
for respondent No.4-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, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 13.12.2013, on account of injuries received by her in a motor vehicular accident which took place on 19.03.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.03.2012 at about 9.30 A.M., claimant-appellant (Ram Pyari) along with other persons boarded a three wheeler bearing registration No. HR-38-Q-1855 from JCB Chowk, Mathura Road, Ballabgarh for going towards village Gaunchhi. Said three wheeler was being driven by Rajesh-respondent No.2. When they reached near Samaipur Chungi, a canter bearing registration No.HR-38-P-5614

being driven by Ram Kishan-respondent No.1 in a rash and negligent

manner, came from the opposite side and struck against the three wheeler, as a result of which, claimant and other occupants sustained multiple and serious injuries. Due to impact of accident, three wheeler turned round and fel down on the road. Claimant-appellant was shifted to B.K. Hospital, Faridabad, where she was medico-legally examined. Thereafter, she was shifted to Manchanda Ortho & Physio Care Centre, NIT, Faridabad. With regard to the accident, FIR No.186 dated 19.03.2012, under Sections 279/337/427 IPC was registered at Police Station, Sector-55, Faridabad 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 canter 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 Ram Pyari-claimant (PW-7) and the fact that FIR Ex.P26 was registered against respondent No.1. Further, the claimant had proved copy of challan Ex.P25 and insurance policy as Ex.P27. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Medicine and treatment charges	Rs.28,100/-
2.	Transportation charges	Rs.3,000/-
3.	Attendant charges	Rs.4,000/-
4	Special diet	Rs. 3,000/-
5	Pain and sufferings	Rs.12,500/-
6	10% disability	Rs.25,200

7	Loss of income	Rs.6000/-
	Total	Rs.81,800/-

Hence, the claimant was found entitled to a total compensation of **Rs.81,800/-** 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.P26 was immediately got registered against respondent No.1.

In the absence of any documentary evidence, income of claimant has been assessed as Rs.3000/- per month. Accident, in the present case, took place in the year 2012. At that time, minimum wages in State of Haryana was Rs.4847/- per month, which can be rounded off to Rs.5000/- per month. As per medical evidence on record, functional disability of the whole body of claimant has been taken assessed to the extent of 5%. Accordingly, compensation on account of future loss of income due to disability comes to Rs.250/- per month (5000 x 5/10) i.e. Rs.3000/- per annum. After applying the multiplier of 14, total compensation on account of loss of future income due to disability comes to Rs.42,000/- (3000 x 14). 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.)
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1.	Medicine and treatment charges	Rs.28,100/-
2.	Transportation charges	Rs.10,000/-
3.	Attendant charges	Rs.10,000/-
4	Special diet	Rs. 10,000/-
5	Pain and sufferings	Rs.15,000/-
6	Disability	Rs.42,000
7	Loss of income during treatment	Rs.10,000/-
	TOTAL COMPENSATION AWARDED	Rs.1,25,100/-
	Enhanced amount of compensation	Rs. 1,25,100 – 81,800 = Rs.43,300/-

The enhanced amount of compensation of **Rs.43,300/-** 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

08.12.2017
ajp

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