

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

FAO No.1109 of 2001 (O&M)

Date of decision: 22.05.2018

Mintu @ Gaurav

....Appellant

Versus

Rajender Parsad and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.C. Pathela, Advocate,
for the appellant.

Mr. Vinod Chaudhary, 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, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 14.12.2000, on account of injuries received by him in a motor vehicular accident which took place on 26.08.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.08.1999, Ramphal, his wife Smt. Guddi, Suman, her son Mintu alias Gaurav (claimant-appellant), Baru Ram and other passengers were travelling in a bus bearing registration No. RJ-31-P-0554 from Barwala to Uklana. The said bus was being driven by Rajinder Parsad-respondent No.1 in a rash and negligent manner at a high speed. He was requested to slow down the speed of bus, but to no avail. After covering some distance, on account of high speed, the bus turned turtle, as a result of which, Ramphal, his wife Smt. Guddi and Mintu

died at the spot. With regard to the accident, FIR Ex.PB was registered against respondent No.1 at Police Station, Barwala on the statement of Roshan Lal. 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 by its driver and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Rajinder Parsad, father of claimant-appellant-claimant (PW-6). Further, the claimant has also proved on record FIR Ex.PB.

Claimant-appellant was 06 years of age at the time of accident. Before the Tribunal, Rajinder Parsad, father of Mintu (PW-6) had stated that he had received an amount of Rs.8,000/- from his employer on account of expenses incurred by him on the treatment of his son Mintu alias Gaurav. In view of the said statement, the Tribunal has observed that since the amount of expenses had already been taken by Rajinder Parsad, no compensation was to be awarded to injured-claimant on account of the expenses incurred by him. The claimant remained admitted in the hospital for a period of five days. Therefore, compensation of Rs.10,000/- was awarded on account of the injuries received by him in the accident. 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.

Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle by respondent No.1. A perusal of the award shows that nothing has been awarded on account of special diet and attendant charges. So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed and Rs.20,000/- more are awarded on account of special diet and attendant charges over and above the amount of compensation awarded by the Tribunal.

The enhanced amount of compensation of **Rs.20,000/-** 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 @ 7.5% 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 "**Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others**, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018". 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

22.05.2018
ajp

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