

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

**FAO No.809 of 2001 (O&M)
Date of decision: 21.02.2018**

Geeta

....Appellant

Versus

Rajpal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.N. Yadav, Advocate,
for the appellant.

Mr. Suvir Dewan, Advocate,
for respondent No.3-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, Jhajjar (hereinafter referred to as 'the Tribunal') vide award dated 14.09.2000, on account of injuries received by him in a motor vehicular accident which took place on 03.05.1997.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.05.1997, claimant-appellant along with her husband was going from village Jahangirpur to village Nasirpur (New Delhi) in a bus bearing registration No. DL-IP-2006. When they reached ahead of Bakargarh turning, the claimant started vomiting, in the meantime, another bus bearing registration No. DL-IP-6635 being driven by respondent No.1 in a rash and negligent manner, came from

the front side and struck against bus No. DL-IP-2006, as a result of which,

claimant-appellant received injuries and her had was cut down. After the accident, claimant became unconscious. With regard to the accident, FIR was registered against the driver of offending vehicle i.e. respondent No.1 at police station, Jafarpur Kalan, New Delhi. 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 Geeta-claimant (PW-1) and her husband Ajay Kumar (PW-3), who was eye witness of the accident. Further, the claimant has also proved on record FIR Ex.P2 and MLR Ex.P3. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	For permanent physical disability which is 80% as per certificate Ex.P1	Rs.80,000/-
2.	Actual expenses incurred on the purchase of medicines as per the bills Ex.P4 to Ex.P63	Rs.14,000/-
3.	For attendant and transportation charges	Rs.5000/-
4.	Other Misc. expenses	Rs.5000/-
	Total	Rs.1,04,000/-

Hence, the claimant was found entitled to a total compensation of Rs.1,04,000/- along with interest at the rate of 12% 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.

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. As per deposition of Dr. J.K. Bhalla (PW-2), claimant-Geeta Devi was medico legally examined by Board of doctors, who assessed the permanent physical disability to the extent of 80%. Disability certificate, in this regard, has been proved as Ex.P1. At the time of accident, she was 22 years of age. Her right hand was chopped of in the accident.

A perusal of the impugned award shows that the claimant was a housewife. With the amputation of her right hand, her disability has to be taken as 100%, as is not able to the household work properly. The accident had taken place on 03.05.1997. Since, the disability of claimant has been taken to be 100%, it would be just reasonable if, her notional income is assessed at Rs.3000/- per month. After applying the multiplier of 18, compensation on account of disability comes to Rs.6,48,000/- (Rs.3000 x 12 x 18). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Compensation on account of permanent physical disability of 100%	Rs.6,48,000/-
(ii)	Medical expenses	Rs.14,000/-
(iii)	For attendant and transportation charges	Rs.20,000/-
(iv)	Pain and sufferings	Rs.20,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.7,02,000/-
(vi)	Enhanced amount of compensation	Rs.7,02,000 – 1,04,000 = Rs.5,98,000/-

The enhanced amount of compensation of **Rs.5,98,000/-** 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

21.02.2018

ajp

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