

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

**FAO No.493 of 1999 (O&M)
Date of decision: 01.03.2018**

Davinder Singh

....Appellant

Versus

Harminder Singh

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishwar Lal, Advocate,
for the appellant.

None for the respondent despite service through publication.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 30.07.1998 (passed in MACT Case No.40 of 1996), on account of injuries received by him in a motor vehicular accident which took place on 26.05.1994.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.05.1994, at about 08.30 A.M., Davinder Singh (claimant-appellant) was going to deposit the electricity bill on his scooter bearing registration No. PAU-1123. When he reached near the periphery of village Jamsher, he stopped the scooter in order to take a turn on the main road. In the meantime, a tractor-trolley

bearing registration No. PIJ-9227 being driven by Harminder Singh in a rash and negligent manner, came from the main road and struck against the scooter, as a result of which, claimant received multiple grievous injuries. His scooter was also damaged. With regard to the accident, claimant had filed a complaint against the respondent. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

Upon notice, respondent failed to appear before the Tribunal. Therefore, he was proceeded against exparte.

COMPENSATION ASSESSED BY THE MACT

On the basis of exparte evidence led by the claimant, the Tribunal allowed the claim petition and awarded compensation as under:-

Sr. No.	Heads	Amount
1.	Towards actual expenses on medicine as per bills proved on record Ex.P1 to Ex.P31, Ex.P32 to Ex.P39.	Rs.18,058.55 Ps.
2.	Towards un-accounted expenses on medicine, conveyance charges, special diet during the period of hospitalization as indoor patient, attendant etc.	Rs.7,000/-
3.	Towards damage to scooter	Rs.1500/-
4.	Towards loss of income during actual period of hospitalization as indoor patient for one month file days(the income at Rs.100/- per day as it may be said to be quite fair under the circumstances).	Rs. 3500/-
5.	Towards expenses on future treatment	Rs.5000/-
6.	Towards pain and suffering particularly when the petitioner was operated upon followed by removal of spleen, function whereof, was to purify the blood and to produce some of the components to the blood.	Rs.15,000/-

	Total	Rs.50,058-55 Rounded Rs.50,000/-	Ps. off
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Accordingly, claimant was awarded compensation of Rs.50,000/- 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 that the accident took place on account of rash and negligent driving of offending vehicle. As per deposition of Om Parkash, Cashier Supervisor, DMC, Ludhiana (AW-2), claimant-appellant remained admitted in Dayanand Medical College & Hospital from 28.05.1994 to 19.06.1994 and again from 25.06.1994 to 05.07.1994. Dr. Jaspal Singh (AW-3) deposed that claimant-appellant was admitted in the hospital as a case of road accident and was operated upon on that day, followed by discharge on 18.06.1994. He further deposed that function of the spleen of the patient was removed and the patient had been visiting for check up till 27.05.1988. Keeping in view the peculiar circumstances of the present case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Towards actual expenses on medicine as per bills proved on record Ex.P1 to Ex.P31, Ex.P32 to Ex.P39.	Rs.18,058/-
(ii)	Towards un-accounted expenses on medicine, conveyance charges, special diet during the period of hospitalization as indoor patient, attendant etc.	Rs.7,000/-

(iii)	Towards damage to scooter	Rs.1500/-
(iv)	Towards loss of income during actual period of hospitalization.	Rs. 10,000/-
(v)	Towards expenses on future treatment	Rs.5000/-
(vi)	Towards pain and suffering particularly when the petitioner was operated upon followed by removal of spleen, function whereof, was to purify the blood and to produce some of the components to the blood.	Rs.15,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.56,558/-
(viii)	Enhanced amount of compensation	Rs.56,558 – 50,000 = Rs.6558/-

The enhanced amount of compensation of **Rs.6558/-** 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

01.03.2018

ajp

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