

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

**FAO No.2891 of 2005 (O&M)
Date of decision: 23.02.2018**

Satish Kumar

....Appellant

Versus

Suresh Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. A.K. Goyal, Advocate,
for the appellant.

Mr. J.P. Dhull, Advocate,
for respondent No.2.

Mr. R.K. Bashamboo, 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, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 08.02.2005, on account of injuries received by him in a motor vehicular accident which took place on 14.03.2001.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.03.2001, at about 2.00/2.30 P.M., claimant-appellant was travelling in his own jeep bearing registration No. HR-39-6736. In the meantime, a truck bearing registration No.HR-46-8689 being driven by respondent No.1-Suresh Kumar in a rash and negligent manner, came from the side of Charkhi Dadri and struck

against the jeep of claimant, as a result of which, he (claimant) received serious injuries on his right leg. He was taken to PGIMS, Rohtak, where his right leg had to be amputated upto hip joint. With regard to the accident, FIR No.81 dated 15.03.2001, under Section279/427 IPC was registered against the driver of offending vehicle i.e. respondent No.1 at police station, Sadar, Charkhi Dadri. 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 Satish Kumar-claimant (PW-3) and Sandeep Kumr (PW-1), who was eye witness of the accident. Further, the claimant has also proved on record FIR Ex.P3. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Treatment expenses	Rs.30,000/-
2.	Charges for special diet	Rs.10,000/-
3.	Loss of income for the period, claimant was confined to bed	Rs.12,000/-
4.	Future loss of income on account of disability	Rs.1,92,000/-
5.	Pain & sufferings and loss of enjoyment of life	Rs.50,000/-
	Total	Rs.2,94,000/-

Hence, the claimant was found entitled to a total compensation of Rs.2,94,000/-. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

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 disability certificate Ex.P1, claimant-Satish Kumar has suffered disability to the extent of 100%. He was operated upon twice and his right leg had to be amputated upto the thigh portion. At the time of accident, she was 28 years of age. Now, he cannot work without assistance. The Tribunal has assessed the income of claimant-appellant as Rs.2400/- per month. RC of the jeep Ex.P4 shows that the claimant was owner of the said jeep. His income has to be taken as Rs.3500/- per month as that of a highly skilled labourer. After applying the multiplier of 17, compensation on account of disability comes to Rs.7,14,000/- (Rs.3500 x 12 x 17). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Treatment expenses	Rs.30,000/-
(ii)	Charges for special diet	Rs.10,000/-
(iii)	Loss of income for the period, claimant was confined to bed	Rs.17,500/- (3500 x 5)
(iv)	Future loss of income on account of disability	Rs.7,14,000/-
(v)	Pain & sufferings and loss of enjoyment of life etc.	Rs.1,00,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.8,71,500/-
(vii)	Enhanced amount of compensation	Rs.8,71,500 – 2,94,000 = Rs.5,77,500/-

The enhanced amount of compensation of **Rs.5,77,500/-** 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

23.02.2018
ajp

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