

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

**FAO No.3343 of 2006 (O&M)
Date of decision: 16.01.2018**

Arvind Thakur

....Appellant

Versus

Hari Om and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Kotla, Advocate,
for the appellant.

Mr. Karminder Singh, 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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 18.03.2006, on account of injuries received by him in a motor vehicular accident which took place on 13.03.2002.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.03.2002, claimant-appellant (Arvind Thakur) along with his friend Manpreet was going from the house of his landlord at Sector 6, Panchkula to his house in Sector 4, Panchkula on a scooter (LML Vespa) bearing registration No.CHL-5607. At about 11.45 A.M., when they reached near 'T' Point on the turn towards Gymkhana Club, Sector 6, Panchkula, a Maruti car bearing registration No.

negligent manner, came from the opposite side and struck against the scooter of claimant, as a result of which, claimant-appellant and his friend Manpreet fell down on the road and received serious injuries. Scooter of the claimant was also damaged in the accident. After the accident, they were taken to General Hospital, Sector 6, Panchkula, from where, claimant-appellant was referred to Saket Hospital, Panchkula. After about two months, when he visited Government Medical College & Hospital, Sector 32, Chandigarh, he was informed by the doctors that there were two more fractures on the shoulder joint. With regard to the accident, FIR under Sections 279/337/338 & 427 IPC was registered against respondent No.1 with the intervention of the Court. 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 been caused on account of rash and negligent driving of offending vehicle 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 Arvind-claimant (PW-1) and the fact that FIR was registered against respondent No.1. Claimant has also proved on record charge-sheet Ex.P36. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1.	General damages	Rs.70,000/-
2	Special damages	Rs.6,000/-
3	Salary paid to Amit	Rs.20,000/-
4	Expenses on the repair of scooter	Rs.4,000/-

	Total	Rs.1,00,000/-
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Hence, the claimant was found entitled to a total compensation of Rs.1,00,000/- 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.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the claimant-appellant has sustained injuries as a result of the accident in question. As per disability certificate Ex.P11, claimant has suffered permanent disability to the extent of 10%. Dr. Umesh Modi (PW-6) has stated that appellant will have difficulty in weight lifting exercises and boxing etc. As per Ex.P12 to Ex.P22, the appellant was a boxer and weight lifter. Moreover, as per Ex.P21, in the boxing championship held in the year 2000-2001, he was given a certificate of merit having placed in the LT/Middle Weight Category. Rent receipts Ex.P38 to Ex.P58 show that the appellant was a tenant in Building No.6, Sector 10, Panchkula on a monthly rent of Rs.9000/- from 07.08.2001 and was running a gym.

On account of the permanent disability to the extent of 10%, claimant-appellant cannot participate in the sports activities i.e. boxing championships and is unable to do weight lifting exercises. In this case the compensation is required to be enhanced only on account of disability suffered by the claimant. Hence, the compensation is hereby re-assessed as under:-

Sr. No.	Heads	Amount (Rs.)
(i)	General damages	Rs.2,00,000/-

(ii)	Special damages (special diet, transportation etc.)	Rs.15,000/-
(iii)	Salary paid to Amit	Rs.20,000/-
(iv)	Expenses on the repair of scooter	Rs.4,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.2,39,000/-
(vi)	Enhanced amount of compensation	2,39,000 – 1,00,000 = Rs.1,39,000/-

The enhanced amount of compensation of **Rs.1,39,000/-** 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

16.01.2018
ajp

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