

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

**F.A.O No. 3834 of 2006
Date of decision:- 05.04.2018**

Ramesh Chand

...Appellant

Versus

Dilawar Singh and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harish Nain, Advocate,
for the appellant.

Mr. S. P. Chahar, Advocate,
for respondent No.2.

Mr. Paul S. Saini, Advocate,
for respondent No.4.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 10.04.2006, on account of injuries sustained by the claimant-Ramesh Chand in a motor vehicular accident which took place on 14.02.2002.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 14.02.2002, Rakesh Chand proceeded from Gurgaon to Village Khuddan District Jhajjar for attending marriage ceremony of a relative. After reaching Jhajjar, he boarded a bus bearing registration No. HR-46/2784, which was going from Jhajjar to Rewari. Respondent No. 1 was driving the bus at fast speed, rashly and negligently. The petitioner and other passenger requested to him drive the bus properly at slow speed but he did not bother. When the bus covered the distance of 12 Kms. On Rewari Silani road, near Silani School, respondent No.1 tried to over take

another vehicle going ahead and in that process, lost control of the bus, as a result of which, the bus turned turtle in the pits on the right side of the road and the petitioner and other passenger received injuries. One passenger was crushed under the bus and died whereas 22/23 passengers suffered multiple injuries/ fractures. After causing accident, respondent No.1 ran away from the spot. In this regard, an FIR No. 67 dated 14.02.2002 was registered in P.S. Jhajjar.

Consequently, claimants-appellants 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 negligent driving of offending vehicle by respondent No.1. Claimant deposed that at the time of incident, he was 33 years of age and he was used to work as Electrician and Plumber.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant. As per the copy of treatment record Ex. P2 and disability certificate Ex. P80, claimant suffered permanent disability to the extent of 10% on account of post traumatic fracture right tibia upper and right public rammia with pain lumber area and mild restriction right hip joint. During cross examination of PW5, Dr. Subhash Sindhu stated that the possibility of reduction of disability upto 2% cannot be ruled out with proper physiotherapy and passage of time. Keeping the view the facts and circumstances of the case Tribunal awarded the compensation to the claimant as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation towards medical expenses	Rs.36,360/-
(ii)	Compensation towards loss of income	Rs. 10,000/-
(iii)	Compensation awarded towards special diet, transportation and attendant expenses	Rs.9,000/-
(iv)	Compensation towards pain and suffering	Rs.15,000/-
(v)	Compensation towards permanent disability suffered by the claimant	Rs.25,000/-
	Total Compensation	Rs. 95,360/-

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

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

REASSESSED COMPENSATION

The fact of accident is admitted and proved. A perusal of the award shows that, claimant had suffered injuries in the accident in question. He remained admitted in PGI MS Rohtak from 14.02.2002 to 26.02.2002. He also got treated from AIIMS, New Delhi and Safadarjang Hospital, New Delhi. Thereafter, he got treatment from Doctor Ahmed and Doctor Anil Sharma. He has suffered permanent disability to the extent of 10% which may reduce upto 2% by Physiotherapy and passage of time which is also proved by PW5 Doctor Subhash Sindhu as Ex. P80. It is also observed that compensation awarded by the Tribunal in the heads of pain and suffering was on lower side no amount was awarded towards his undergone treatment in different hospitals. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the undergone treatment of

the claimant for 12-14 days and pain and suffering due to 10% permanent disability of the claimant and other heads shall remained same. In the present case, the compensation is being reassessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation towards medical expenses	Rs.36,360/-
(ii)	Compensation towards loss of income	Rs. 10,000/-
(iii)	Compensation awarded towards special diet, transportation and attendant expenses	Rs.25,000/-
(iv)	Compensation towards pain and suffering	Rs.25,000/-
(v)	Compensation towards permanent disability suffered by the claimant	Rs.25,000/-
(vi)	Compensation towards stay in hospital around 14 days	Rs.20,000/-
	Total Compensation	Rs. 1,41,360/-
	Total enhanced amount of compensation	Rs. 1,41,360-95,360/-=46,000/-

The enhanced amount of compensation of **Rs.46,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

05.04.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No