

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4743-2006 (O&M)

Date of decision: 18.05.2018

Fateh Chand

...Appellant

V/s.

Kulwant Singh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sachin Mittal, Advocate for the appellant.

Mr. Rajneesh Malhotra, Advocate for  
respondent No. 2-insurance co.

\*\*\*

**RITU BAHRI, J. (Oral).**

**CM-251-CII-2018**

Application for early hearing of the case is allowed and the matter is taken up on Board today itself.

**FAO-4743-2006**

The claimant has come up in appeal against the award dated 20.07.2006 passed by Motor Accident Claims Tribunal (for short 'the Tribunal') whereby he has been awarded a compensation of Rs.49,851/- on account of injuries suffered in a road accident that took place on 15.05.2005.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 15.05.2005, Fateh Chand was going on his cycle to his house after finishing his work. When he reached near Singla Hospital, a motorcycle bearing No. HR-05P-6487 driven by respondent No. 1 came from the side of Nirmal Kutia rashly and negligently hit the cycle of the appellant which resulted into serious injuries and he became unconscious.

With regard to the alleged accident, an FIR No. 195 dated 17.05.2005 (Ex.P34) under Sections 279, 337 and 338 IPC at Police Station Civil Lines, Karnal against respondent No. 1-Kulwant Singh. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

**COMPENSATION ASSESSED BY THE MACT**

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR No. 195 dated 17.05.2005 (Ex.P34) under Sections 279, 337 and 338 IPC at Police Station Civil Lines, Karnal and the respondent No. 1 was challaned (Ex.P35).

The Tribunal has assessed the compensation as Rs. 49,851/- on account of injuries suffered by the appellant along with interest @ 7 ½ % 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**

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as under:-

| HEADS                   | CALCULATIONS |
|-------------------------|--------------|
| Medical expenses        | 29,851       |
| 10 days in hospital     | 10,000       |
| Special diet, attendant | 10,000       |
| Pain and suffering      | 15,000       |
| Loss of income          | 15,000       |

|                                 |                                  |
|---------------------------------|----------------------------------|
| TOTAL COMPENSATION AWARDED      | Rs. 79,851/-                     |
| ENHANCED AMOUNT OF COMPENSATION | Rs.79,851-49,851=<br>Rs.30,000/- |

The enhanced amount of compensation of **Rs.30,000/-** 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 @ 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 V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.*” Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)  
JUDGE

May 18, 2018  
Divyanshi

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