

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

**FAO No.3289 of 2011 (O&M)
Date of decision: 24.05.2018**

Harnek Singh

....Appellant

Versus

Swaran Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dheeraj Narula, Advocate,
for the appellant.

Ms. Divya Godara, Advocate,
for respondent Nos. 1 and 2.

Mr. R.C. Kapoor, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.11090-CII of 2011

The application is for leading additional evidence i.e. medical bills as Annexure P-1 (Colly.).

Notice of this application was given way back on 09.10.2012.

But, no reply has been filed to this application till date.

In view of the said fact, the present application is allowed and medical bills (Annexure P1) are taken on record by way of additional evidence.

FAO No.3289 of 2011

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 18.08.2010,

on account of injuries received by him in a motor vehicular accident which took place on 30.09.2008.

Brief facts of the case are that on 30.09.2008, at about 7.30 P.M., claimant-appellant (Harnek Singh) along with Rupinder Singh was going on a motorcycle bearing registration No. HR-24-H-5358. Harnek Singh was driving the said motorcycle, whereas Rupinder Singh was pillion rider. When they reached near village Neza Dela Kala, a Qualis car bearing registration No.DL-7-CC-5876, being driven by respondent No.1-Swaran Singh in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, both the occupants of the motorcycle received injuries on their persons. The motorcycle was also damaged. They were got admitted in the hospital of Dr. Y.K. Chaudhary, Sirsa, from where, claimant-appellant Harnek Singh was referred to DMC, Ludhiana. With regard to the accident, FIR No.247 dated 12.10.2008, under Sections 279/337/338/427 IPC was registered at Police Station, Sadar, Sirsa against respondent No.1 on the statement of claimant-Rupinder Singh. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

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-respondent No.1 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of claimant-appellant (PW-3) and Rupinder Singh (PW-4). Claimant has also proved on record copy of report under Section 173 Cr.P.C. Ex.P10 and copy of FIR Ex.P11. The compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	On account of bills (regarding medicines & hospital charges)	Rs.61,000/-
2.	On account of loss of earnings for the period of six months, for which, he was forced to take rest	Rs.12,000/-
3	On account of disability of 15%, which is proved from certificate Ex.P9 (loss of earning considered as Rs.300/- per month as the notional income of Harnek singh was assessed as Rs.2000/- per month. Keeping in view the age of petitioner, multiplier of 18 was applied.	Rs.300 x 12 x 18 = Rs.64,800/-
4	On account of misc. expenses in the hospital during period of hospitalization	Rs.2100/-
5	On account of four OPD at Ludhiana (Rs.500 x 4)	Rs.2000/-
6	On account of pain and suffering and follow up treatment	Rs.8100/-
	Total	Rs.1,50,000/-

Ultimately, the claimant was found entitled to a total compensation of Rs.1,50,000/- along with interest at the rate of 7.5% from the date of filing of the claim 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. Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 to the effect that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. At the time of accident, claimant-appellant Harnek Singh was a young student of 19 years of age. As per disability certificate Ex.P9, he has suffered permanent disability to the extent of 15%. As per deposition of Dr. Pawan Kumar (PW-2), he was

having difficulty in walking with right lower limb. Therefore, multiplier

system has been rightly applied by the Tribunal while assessing the compensation. This Court is of the view that 40% addition should have been made in the income of claimant-appellant on account of future prospects for calculating the 'loss of earnings', which comes to Rs.2800/- (2000 + 800). Loss of earnings due to 15% permanent disability, comes to Rs. 420/- per month (2800 x 15/100). Keeping in view the peculiar facts and circumstances of the case, the compensation is hereby re-assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1	Medical bills	Rs.61,000 + Rs.30,000/-= Rs.91,000/-
2	Loss of earning for the period of six months for which, he was forced to take rest	Rs.12,000/-
3	Compensation on account loss of earnings due to disability to the extent of 15%	Rs.420/- x 12 x 18 = Rs.90,720/-
4	Special diet, transportation, hospitalization	Rs.20,000/-
5	Pain and sufferings	Rs.15,000/-
6	Loss of amenities in life	Rs.50,000/-
7	TOTAL COMPENSATION AWARDED	Rs.2,78,720/-
	Enhanced amount of compensation	Rs.2,78,720 – 1,50,000 = Rs.1,28,720/-

The enhanced amount of compensation of **Rs.1,28,720/-** 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 (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

24.05.2018
ajp

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