

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

**FAO No.6285 of 2010 (O&M)
Date of decision: 14.05.2018**

Kamaljit Singh

....Appellant

Versus

Sulakhan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.K. Gupta, Advocate,
for the appellant.

Mr. Ishan Cooner, Advocate,
for Mr. J.S. Cooner, Advocate,
for respondent Nos.1 and 2.

Mr. Aseem Aggarwal, 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, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 03.11.2009, on account of injuries received by him in a motor vehicular accident which took place on 09.12.2006.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.12.2006, claimant-appellant along with others had gone to Aalishan Palace, Ladwa for working as waiter in a marriage function. After the function was over, they were returning to their village Khajuri in a truck bearing registration No.

in a rash and negligent manner. They requested him to drive the truck in proper manner, but he did not bother. After sometime, he lost balance of the truck and struck the same against an eucalyptus tree standing on the roadside, as a result of which, the claimant along with other received injuries and got trapped in the cabin. Respondent No.1 ran away from the spot leaving the truck. Some passersby shifted the injured persons to Radaur Hospital, from where claimant-Kamaljit was taken to Dr. Mahajan's Hospital, Yamuna Nagar. Thereafter, he was referred to PGI, Chandigarh. With regard to the accident, FIR No.113 dated 10.12.2006, under Sections 279/337/338 IPC was registered against the driver of offending vehicle i.e. respondent No.1 at police station, Jathlana. 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 Ravinder Kumar (PW-2) and Kamaljit Singh-claimant (PW-8). Further, the claimant has also proved on record FIR Ex.P2. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Expenses of medical treatment	Rs.17,581-31 Ps.
2.	Loss of income	Rs.17,500/-
3.	Loss of income on account of disability to the extent of 20%	Rs.50,000/-
4.	Special diet	Rs.4000/-
5.	Attendant charges	Rs.4000/-
6.	Pain and sufferings	Rs.15,000/-

	Total	Rs.1,08,081.31 Ps. rounded off Rs.1,09,000/-
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Hence, the claimant was found entitled to a total compensation of Rs.1,09,000/- 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.

REASSESSED COMPENSATION

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 by its driver. In the present case, as per deposition of Dr. Devendra (PW-3), the claimant suffered open fracture both bones right and left legs. He was operated on 11.12.2006. As per certificate Ex.P38, issued by the Board of Doctors, claimant has suffered permanent disability to the extent of 20%. A perusal of the impugned award shows that compensation has been awarded on the lower side. So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Expenses of medical treatment	Rs.17,581.31 Ps.
(ii)	Loss of income	Rs.17,500/-
(iii)	Loss of income on account of disability to the extent of 20%	Rs.1,25,000/-
(iv)	Special diet	Rs.10,000/-
(v)	Attendant charges	Rs.10,000/-
(vi)	Pain and sufferings	Rs.20,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.2,00,081.31 Ps. rounded off Rs.2,00,100/-

(viii)	Enhanced amount of compensation	Rs.2,00,100 – 1,09,000 = Rs.91,100/-
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The enhanced amount of compensation of **Rs.91,100/-** 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

14.05.2018
ajp

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