

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

**FAO No.3988 of 2011 (O&M)
Date of decision: 08.03.2018**

Daya Ram

....Appellant

Versus

Abbas and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikrant Pamboo, Advocate,
for the appellant.

Ms. Monika Jalota, 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, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 28.10.2010, on account of injuries received by him in a motor vehicular accident which took place on 10.06.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.06.2008, claimant-appellant was going from his office, situated at A-125, Sector 63, Noida towards his house at Faridabad on a motorcycle bearing registration No.HR-51-U-5082. At about 2.30 A.M., when he reached near Okhla Barrage, Police Picket, New Delhi, in the meantime, a truck bearing registration No. HR-38-M-3786 being driven by Abbas-respondent No.1 in a rash and

negligent manner, came and hit the motorcycle of claimant from behind, as

a result of which, he (claimant) fell down on the road along with motorcycle and received multiple injuries. Driver of the offending truck was caught at the spot with the help of policemen. Claimant was shifted to Trauma Centre, AIIMS, New Delhy and thereafter, he was shifted to Safdarjang Hospital, New Delhi on the same day. He had also taken treatment from Handa Medical Centre, Sector 16, Faridabad, Batra Hospital, New Delhi and Sunflag Hospital, Faridabad. With regard to the accident, FIR No.327 dated 10.06.2008, under Sections 279/337 IPC was registered against the driver of offending vehicle i.e. respondent No.1 at police station, Sarita Vihar, New Delhi. 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 Daya Ram-claimant (PW-1). Further, the claimant has also proved on record FIR Ex.P1 and other documents Ex.P2 to Ex.P41. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Expenses of treatment	Rs.63,000/-
2.	Pain and sufferings	Rs.30,000/-
3.	Attendant charges	Rs.6000/-
4.	Nutritious diet	Rs.6000/-
5.	Loss of income	Rs.9900/-
6.	Transportation	Rs.6000/-
	Total	Rs.1,20,900/-

Hence, the claimant was found entitled to a total compensation of Rs.1,20,900/- along with interest at the rate of 7½% 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. In the present case, the claimant had remained confined to bed for almost three months. A perusal of the impugned award shows that compensation under the head “loss of income” has been awarded on th lower side. As per deposition of Adarsh Maheshwari (PW-3), annual salary of the claimant was Rs.1,35,600/-. Accordingly, his monthly income comes to Rs.11,300/- (1,35,600/12). Since, the claimant remained confined to bed for three months, compensation on account of loss of income comes to Rs.33,900/- (Rs.11,300/- x 3). Compensation under the other heads has been rightly assessed by the Tribujal. 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 treatment	Rs.63,000/-
(ii)	Pain and sufferings	Rs.30,000/-
(iii)	Attendant charges	Rs.6000/-
(iv)	Nutritious diet	Rs.6000/-
(v)	Loss of income	Rs.33,900/-
(vi)	Transportation	Rs.6000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.1,44,900/-

(viii)	Enhanced amount of compensation	Rs.1,44,900 – 1,20,900 = Rs.24000/-
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The enhanced amount of compensation of **Rs.24,000/-** 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 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

08.03.2018
ajp

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