

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4607 of 2011 (O&M)

Date of Decision: 10.05.2018

Krishna Devi

.....Appellant

Vs.

Harbans Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sham Lal Bhalla, Advocate, for the applicant/appellant.

Mr.Barjinder Singh, Advocate, for respondent No.1.

Mr.Vinod Chaudhary, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

CM No.17473-CII of 2011

For the reasons stated in the application, delay of 12 days in filing the appeal is condoned.

Application stands disposed of.

CM No.25295-CII of 2013

Application is allowed, subject to just exceptions.

Correct copy of grounds of appeal is taken on record.

Main Case

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 14.12.2010, passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short, 'the Tribunal') vide which compensation to the tune of Rs2,50,000/- was awarded to the claimant on account of injuries suffered by him in a motor vehicular

accident.

FACTS NOT IN DISPUTE

On 02.11.2007, a truck came from the direction of Rajpura at a high speed and which was being driven rashly and negligently and which after crossing the “chowk” crossed over the footpath and struck against the STD Kiosks and damaged both the said Kiosks. It is averred that Krishna Devi was doing her work at that time in the kiosk itself and sustained injuries due to striking of truck and was taken out from the debris from under the front tyre of the truck and was removed to Sohan Nursing Home. It is further averred that Jang Singh was sitting in the other Kiosk at that time and who also sustained minor injuries. It is the case of the claimant that truck driver was taken out from the truck and on inquiry, he disclosed his name as Harbans Singh son of Amar Singh resident of village Mukaronpur and in this regard, FIR Ex.P170 has been registered.

COMPENSATION ASSESSED BY MACT

The claimant had examined . PW-3 Dr.M.L.Gupta (retired) Professor and head of Department of Surgery, Dayanand Medical College and Hospital, Ludhiana, who has proved the medical treatment record pertaining to the claimant and has stated that Krishna Devi claimant was admitted on 02.11.2007 and was discharged on 23.11.2007. He further proved that the claimant was admitted with history of roadside accident and was having fracture of ribs and fracture of right clavical and fracture of left tibia and that she was operated upon on 02.11.2007 as well as on 13.11.2007. Factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation

has been assessed as under:

Sr.No.	Heads of compensation	Amount
1.	Expenses incurred on medical treatment including purchase of medicines	Rs.2,00,000/-
2	Expenses on conveyance	Rs.15,000/-
3	Loss of income	Rs.15,000/-
4.	Pain and suffering	Rs.10,000/-
4	Special diet	Rs.10,000/-
	Total	Rs.2,50,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**National insurance Company Ltd. Vs. Pranay Sethi and others passed in SLP (Civil) No.25590 of 2014.** On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of the above mentioned judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1.	Expenses incurred on medical treatment including purchase of medicines	Rs.2,00,000/-
2	Loss of income Rs.3500/- X 5	Rs.17500/-
3	Pain and Suffering	Rs.25,000/-

4.	Special diet	Rs.25,000/-
5	Transportation	Rs.25,000/-
	Total	Rs.2,92,500/-
	Enhanced amount of compensation	Rs.2,92,500/- ----- Rs.2,50,000/- =Rs.42,500/-

Resultantly, the enhanced amount of compensation of Rs.42,500/- shall be payable within a period of forty five days 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 a case of **Shri Nagar Mal and Ors. Vs. The Oriental Insurance Company Limited and Others passed in Civil Appeal No.448 of 2018.** Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

10.05.2018
anil

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