

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

F.A.O No.1538 of 2012

Date of decision:- 06.03.2018

Samrat

...Appellant

Versus

Taiyub Hussain and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.R. Yadav, Advocate,
for the appellant(s).

Mr. D. K. Prajapati, Advocate, for
Mr. R. S. Madaan, Advocate,
for the respondent-Insurance Company.

RITU BAHRI J. (Oral)

CM Nos. 6319-CII of 2012 and 6320-CII of 2012:

This is an applications for condonation of delay in filing
and refilling the present appeal.

For the reasons mentioned in the applications, same are
allowed and delay of 11 days in filing the appeal and 166 days in
refilling the appeal, respectively, are condoned.

Accordingly, present applications are stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellant
seeking enhancement of compensation awarded by Motor Accident
Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide
award dated 31.03.2011, on account of injuries sustained by the
appellant-Samrat in a motor vehicular accident which took place on
19.07.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 19.07.2010, petitioner/appellant was going from Bilaspur to Manesar on Motorcycle bearing No. 26 BA-9185 which was being driven by him at slow and moderate speed on correct side of the road. Around 5.00 p.m. When the petitioner reached near Bilaspur chowk meanwhile a dumper bearing registration no. HR-55F-0558 driven by respondent No.1 at high speed, rashly, negligently, carelessly and without adopting the traffic rules came from behind and hit into the motorcycle of the petitioner. As a result of the accident the petitioner fell on the road alongwith his motorcycle and suffered multiple grievous injuries all over his body and became unconscious. After causing the accident respondent no.1 fled away along with the dumper from the spot. Niranjana son of Dharam Singh, resident of Manesar was coming from Tauru to Manesar in Scorpio car bearing registration No. HR-26As-4666 had witnessed the accident and had taken the petitioner in Jeevan Hospital, Bilaspur for treatment in his car with the help of his friend Ved Parkash son of Shiv Lal, resident Manesar. In this regard, an FIR No. 116 dated 22.07.2010 under sections 279/337 IPC has been lodged by the Police of Police Station, Bilaspur on the statement of the petitioner/appellant against respondent No.1. Consequently, 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 been caused on account of negligent driving of offending vehicle by respondent No.1.

Petitioner/appellant deposed that at the time of accident he was 19 years of age hale and hearty having good health and physique and was a student of Poly Technical, Manesar.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the petitioner/appellant. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations(i)</i>
(i)	Compensation towards treatment expenses as per bills Ex. P25 to Ex. P32, Ex. P34, Ex. P35 to Ex.P39 , Ex. P46 to Ex. P52.	Rs.2,97,000/-
(II)	Compensation towards pain and suffering, special died, attendant, loss of income and transportation	Rs.33,000/-
	Total Compensation	Rs. 3,30,000/-

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. A perusal of the award shows that Bill Ex. P1 was issued on very higher side. Moreover, no doctor and authorized signatory of the bill Ex.P1 has been examined who had treated the petitioner and moreover, the charges of room have been charged at Rs.1500/- per day for 40 days i.e.Rs.60,000/- which were also quite at higher side and Tribunal decided petitioner is only entitled for Rs.40,000/- out of the said amount of bill i.e. Rs.1,40,000/-(Ex.P1). However, the said amount i.e. Rs. 40,000/- towards medical bill Ex. P1 did not considered or added by the Tribunal while assessing the total amount of compensation

which needs to be added. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed.

In the present case, the compensation is being reassessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations(i)</i>
(i)	Compensation towards treatment expenses as per bills Ex. P25 to Ex. P32, Ex. P34, Ex. P35 to Ex.P39 , Ex. P46 to Ex. P52.	Rs.2,97,000/-
(II)	Compensation towards pain and suffering, special died, attendant, loss of income and transportation	Rs.33,000/-
(iii)	Compensation towards medical bill Ex. P1	Rs. 40,000/-
	Total Compensation	Rs. 3,70,000/-
	Total Enhanced amount of compensation	Rs.3,70,000-3,30,000=40,000/-

The enhanced amount of compensation of **Rs.40,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

06.03.2018

(RITU BAHRI)
JUDGE

Riya Grover

Whether speaking/reasoned

Whether reportable

Yes

No