

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

FAO No.5959 of 2012 (O&M)

Date of decision: 18.01.2018

Monu

....Appellant

Versus

Subhash and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anirudh Kush, Advocate,
for the appellant.

Mr. A.S. Sidhu, 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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 10.03.2011, on account of injuries received by him in a motor vehicular accident which took place on 05.01.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.01.2008, Salim Khan (since deceased) along with Monu-claimant/appellant (pillion rider) was going on a bicycle from village Kami to Barwala. At about 2.45 P.M., when they reached near Military Poultry Farm on Dera Bassi to Barwala road, a tractor-trolley bearing registration No.HR-99-A-7686 (Temporary) being driven by respondent No.1-Subhash, came from the side of Sunderpur and struck against the bicycle from behind, as a result of which, both Salim

Khan and Monu fell down on the road. Left front tyre of tractor ran over the

chest of Salim Khan and he died on the spot. The accident was witnessed by one Hazura Ram. With regard to the incident, FIR Ex.P13, under Sections 304-A/279/337 IPC was registered against respondent No.1 at Police Station, Chandimandir. 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 the offending vehicle by its driver i.e. respondent No.1-Subhash. This finding was rightly given on the basis of deposition of Hazura Ram (PW-6), who was eye witnesses of the accident. Further, the claimants have proved on record FIR Ex.P13 registered against respondent No.1. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Medical expenses	Rs.6421/-
2.	Charges for special diet	Rs.5,000/-
3.	Transportation	Rs.6,000/-
4.	Pain and sufferings	Rs.5,000/-
5.	Loss of future income on account of disability to the extent of 5%	Rs.50,000/-
	Total	Rs.72,421/-

Hence, the claimant was found entitled to a total compensation of Rs.72,421/- (round figure Rs.72,420/-) 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

case file. The fact of accident is admitted and proved. It stands established that claimant-appellant has received injuries as a result of accident.

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-respondent No.1. As per disability certificate Ex.P1, claimant-Monu has suffered physical disability to the extent of 5%. As per Dr. Umesh Modi, Medical Officer, this disability was not likely to decrease with the passage of time. In the accident, claimant had suffered fracture of tibia right side with degloving injury on right thigh and right leg. He remained under plaster over the right leg for two months. Tribunal has assessed the notional income of claimant-appellant as Rs.15,000/- per annum. Claimant was about 8 years of age at the time of accident. His notional income has to be taken as Rs.30,000/- per annum. After applying the multiplier of 18, compensation on account of disability comes to Rs.27,000/- (Rs.30,000 x 5/100 x 18). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Medical expenses	Rs.6421/-
(ii)	Charges for special diet	Rs.20,000/-
(iii)	Transportation	Rs.10,000/-
(iv)	Pain and sufferings	Rs.20,000/-
(v)	Compensation on account of disability to the extent of 5%	Rs.27,000/-
(vi)	Loss of enjoyment of life, future prospects etc.	Rs.20,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.1,03,421/-
(viii)	Enhanced amount of compensation	Rs.1,03,421 – 72,420 = Rs.31,001/-

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

18.01.2018

ajp

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