

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

**FAO No.1256 of 2013 and  
Cross-objection No.18-CII of 2015 (O&M)  
Date of decision: 24.01.2018**

Subhash

....Appellant

Versus

Satnam Singh and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ashish gupta, Advocate,  
for the appellant-claimant.

Mr. Pritam Saini, Advocate,  
for respondent No.2-cross objector (owner).

Mr. Aseem Aggarwal, Advocate,  
for Mr. Harsh Aggarwal, Advocate,  
for respondent No.3-Insurance Company.

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**RITU BAHRI J. (Oral)**

**CM-1748-CII-2015**

In view of the averments mentioned in the application, same is  
allowed and delay of 201 days in filing of the cross-objection is condoned.

**FAO-1256-2013**

This appeal has been filed by the claimant-appellant seeking  
enhancement of compensation awarded by Motor Accident Claims Tribunal,  
Karnal (hereinafter referred to as 'the Tribunal') vide award dated  
23.11.2012, on account of injuries received by him in a motor vehicular  
accident which took place on 07.06.2010.

On the other hand, cross objectors-respondent No.2 (owner of

offending vehicle) has filed Cross Objection No.18-CII of 2015 for setting aside of the impugned Award to the extent of grant of recovery rights to the Insurance Company.

### **FACTS NOT IN DISPUTE**

Brief facts of the case are that on 07.06.2010, claimant-appellant (Subhash) along with his cousin Sandeep Kumar, was going village Narayan, District Panipat towards his village Koyodak, District Kaithal on a motorcycle bearing registration No. HR-08-K-0930. Said Sandeep Kumar was driving the motorcycle, whereas claimant was a pillion rider. At about 8.15 A.M., when they reached on the over-bridge of Kaithal Road, Karnal, a truck bearing registration No. HP-12-C-2307 being driven by Satnam Singh-respondent No.1 in a rash and negligent manner, came from behind and hit the motorcycle, as a result of which, both the occupants of motorcycle fell down and sustained multiple & serious injuries. Motorcycle was also damaged in the accident. With regard to the accident, FIR No.551 dated 07.06.2010, under Sections 279/337/338 IPC was registered at Police Station, City Karnal. 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 been caused on account of rash and negligent driving of offending truck by its driver-respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Subhash-claimant and the fact that FIR No.551 dated 07.06.2010, under Sections 279/337/338 IPC was registered at Police Station, City Karnal against respondent No.1.

Further, the claimant had proved copy of report under Section 173 Cr.P.C. as Ex.P84. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

| Sr. No. | Heads                                                                   | Amount (Rs.)         |
|---------|-------------------------------------------------------------------------|----------------------|
| 1.      | Expenses on medicines and treatment                                     | Rs.1,84,429/-        |
| 2.      | Cost of transportation, special diet, attendant and loss of income etc. | Rs.10,000/-          |
| 3.      | Pain and sufferings                                                     | Rs.10,000/-          |
|         | <b>Total</b>                                                            | <b>Rs.2,04,429/-</b> |

Hence, the claimant was found entitled to a total compensation of Rs.2,04,429/- (rounded off Rs.2,05,000/-) along with interest at the rate of 6% per annum from the date of filing of the petition till realization. While awarding the compensation, Tribunal has further returned a finding that the driver of the offending vehicle did not have a valid and effective licence at the time of accident. Therefore, recovery rights have been given to the insurance company. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

During the pendency of appeal, respondent No.2-owner has filed Cross Objection No.No.18-CII of 2015 seeking modification of the award qua the relief of recovery rights given to the insurance company.

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

As far as finding on issue No.1 is concerned, parties are not in dispute that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1. The fact of accident is admitted and proved. It stands established that claimant-appellant has

received injuries as a result of the accident. As per deposition of Dr. Parveen Garg (PW-1), injured-claimant was admitted in his hospital on 07.06.2010 with the alleged history of roadside accident. As per claimant, he was operated to his knee injuries as skin of left thigh from groin to knee joint was avulsed and exposing muscles. He was given five units of blood and the doctor carried skin grafting on 23.06.2010. He was discharged from the hospital on 06.07.2010.

Since, claimant-appellant remained admitted in the hospital for about 30 days, the compensation requires to be re-assessed. Hence in view the peculiar circumstances of the case, compensation is re-assessed as under:-

| Sr. No. | HEADS                                                 | AMOUNT (In Rs.)                             |
|---------|-------------------------------------------------------|---------------------------------------------|
| (i)     | Expenses on medicines and treatment                   | Rs.1,84,429/-                               |
| (ii)    | Pain and sufferings                                   | Rs.20,000/-                                 |
| (iii)   | Costs of transportation, special diet, attendant etc. | Rs.15,000/-                                 |
| (iv)    | Loss of income                                        | Rs.19,200/- (4800 x 4)                      |
| (v)     | <b>TOTAL COMPENSATION AWARDED</b>                     | <b>Rs.2,38,629/-</b>                        |
| (vi)    | <b>Enhanced amount of compensation</b>                | <b>Rs.2,38,629 – 2,05,000 = Rs.33,629/-</b> |

The enhanced amount of compensation of **Rs.33,629/-** 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 @ 9% 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 “***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others***”, 2015(1) SCC 539. Remaining conditions of disbursal of amount shall remain unaltered.

As far as Cross Objection No.No.18-CII of 2015 is concerned, respondent No.2-owner of offending truck has placed on record copy of driving licence of respondent No.1 as Annexure R2/1. In reply to this, learned counsel for the insurance company has stated that this licence is fake.

Since no finding has been given by the Tribunal on this aspect i.e. issue No.2, the matter is remanded back to the Tribunal to examine the respective evidence led by the driver/owner and insurance company and thereafter, pass a fresh order with regard to the liability of making payment of compensation. As far as claimant-appellant is concerned, the firstly, the insurance company will make payment of the enhanced amount and thereafter, the Tribunal will decide the question of liability.

Accordingly, the award stands modified to the above extent and the present appeal and cross-objections are disposed of accordingly.

**(RITU BAHRI)  
JUDGE**

24.01.2018  
ajp

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