

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

F.A.O No. 1711of 2014

Date of decision:- 19.03.2018

Rajender Singh

...Appellant

Versus

Aas Mohammad and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.B.K. Bagri, Advocate,
for the appellant.

Mr. Lalit Garg, Advocate,
for respondent Nos. 3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 30.11.2013, on account of injuries sustained by Rajender Singh in a motor vehicular accident which took place on 06.12.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 06.12.2010 he was going to his village Shekhur from Village Missa (Palwal) in a tanker no.HR-46C/4747 via Tauru Bilaspur road. At about 7.30 a.m., when the tanker reached near Vita Life Company on Tauru Bilaspur road situated in the revenue estate of village Patheri, District Gurgaon, a truck bearing registration No. RJ-05GA/3463 which was being driven by respondent No.1 at a false speed and in a rash and negligent manner and without giving any indication hit the tanker by going on wrong side and due to this accident, the petitioner and 5-6 other persons, who were also

traveling in the said tanker, also sustained injuries. Two or three persons died in the said accident. The petitioner was taken to Jeewan Hospital Bilaspur Chowk, Bilaspur where he was medically examined and treated by the doctors. In this regard an Fir No. 226 dated 06.12.2010 under Sections 279/337/304A IPC was registered in police station, Bilaspur against respondent No. 1 at the instance of one Bijender Singh. In the accident, the petitioner suffered multiple fracture injuries and he remained hospitalized from 06.12.2010 to 13.12.2010 and he is still undergone treatment.

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.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants.

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation towards on account of medical bills	Rs. 83,860/-
(ii)	Compensation on account of pain and suffering, special diet, attendant and transportation etc.	Rs.10,000/-
(iii)	Compensation towards disability to the extent of 52%	Rs.1,04,000/-
	Total Compensation	Rs. 1,97,360/-

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.

Learned Counsel for the appellant argued that Compensation awarded in the head of disability which is 52% permanent in nature, has been on lower side.

REASSESSED COMPENSATION

Heard. The fact of accident is admitted and proved. A perusal of the award shows that Dr. Ashok Saini, SMO General Hospital, Rewari has stepped in the witness box as PW4. He stated that on 08.05.2013 he along with other members of the board examined Rajender and assessed disability to the extent of 52% on account of marked restricted movement of right knee with partial loss of stability with pain and issued disability certificate Ex. PW4/A. 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 keeping in view that claimant has daily wagers. Income of the deceased assessed by this court at Rs.4,500/- as per Minimum Wages Act and the disability assessed qua the whole body to the extent of 26% and the same has been assessed by multiplier method.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 4,500/- per month
(ii)	25% added in (i) towards future prospects	Rs.4,500 + 1125=Rs.5625/-
(iii)	Multiplier applied	Rs.5,625X12X15= 10,12,500/-
(iv)	Compensation towards disability qua the whole body to the extent of 26%.	Rs. 2,63,250/-
(v)	Compensation towards medical treatment	Rs.83,360/-
(vi)	Compensation on account of special diet, pain and suffering, attendant and transportation	Rs.10,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
	Enhanced amount of compensation	Rs.3,56,610 -1,97,360=Rs.1,59,250/-

The enhanced amount of compensation of **Rs.1,59,250/-** 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.

19.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>