

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

**FAO No.1062 of 2015
Date of decision: 12.01.2018**

Darshan Lal

....Appellant

Versus

Raj Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwinie K. Bansal, Advocate,
for the appellant.

Mr. Satpal Dhamija, 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 16.10.2014, on account of injuries received by him in a motor vehicular accident which took place on 28.09.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.09.2012, at about 5:30 P.M., claimant-appellant was standing in front of his shop. In the meantime, a Swift car (silver coloured) bearing registration No. CH-01-AC-7352 being driven by Raj Kumar-respondent No.1 in a rash and negligent manner, came from behind and struck against him (claimant), as a result of which, he fell on the road and suffered serious multiple injuries. He was taken to GMCH,

appellant were broken/fractured. With regard to the accident, FIR No.493 dated 30.09.2012, under Sections 279/337 IPC was registered at Police Station, Sector 34, Chandigarh against the driver of offending vehicle i.e. respondent No.1. 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 offending vehicle (car) by its driver-respondent No.1 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Darshan Lal-claimant (PW-3) and ASI Baj Singh (PW-1), who proved on record FIR Ex.P1, which was registered against the driver of offending vehicle. Ultimately, the claim petition was accepted by the Tribunal and compensation was awarded as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Medical expenses spent on treatment	Rs.1,19,420/-
2.	Loss of income	Rs.46,395/-
3.	Pain & sufferings and loss of amenities	Rs.25,000/-
4	Special diet	Rs.25,000/-
5	Attendant	Rs.10,000/-
	Total	Rs.2,25,815/-

Hence, the claimant was found entitled to a total compensation of Rs.2,25,815/- with costs of Rs.2000/- i.e. Rs.2,27,815/- along with interest at the rate of 6% 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

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved.

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. Learned counsel for the appellant has argued that as per disability certificate, claimant-appellant has suffered permanent disability to the extent of 15%, as he had suffered fracture in both the lower limbs.

Learned counsel for respondent No.3-Insurance Company is not disputing the disability certificate.

A perusal of the impugned award shows that the claimant was doing the business of supply of bamboos. No evidence was led by the appellant to show that due to this accident, his business has come to an end and he has suffered loss of income for the last five years. Since, the claimant has suffered permanent disability by 15% with respect to both the lower limbs, it would be just reasonable if Rs.30,000/- (15 x Rs.2000/-) is granted on this account. A perusal of the impugned award shows that compensation under the other heads has rightly been awarded by the Tribunal. 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 spent on treatment	Rs.1,19,420/-
(ii)	Loss of income	Rs.46,395/-
(iii)	Pain & sufferings and loss of amenities	Rs.25,000/-
(iv)	Special diet	Rs.25,000/-
(v)	Attendant	Rs.10,000/-
(vi)	Compensation on account of permanent disability to the extent of 15%	15 x Rs.2,000/- = Rs.30,000/-

(vii)	TOTAL AWARDED	COMPENSATION	Rs.2,55,815/-
(viii)	Enhanced amount of compensation		Rs.2,55,815 – 2,27,815 = Rs.28,000/-

The enhanced amount of compensation of **Rs.28,000/-** 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.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

12.01.2018
ajp

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