

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

**FAO No.113 of 2016 (O&M)
Date of decision: 20.04.2018**

Samarjeet

....Appellant

Versus

Jagdish and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Lalit Kumar Yadav, Advocate,
for Mr. Shilak Ram Hooda, Advocate,
for the appellant.

Mr. Vinod Gupta, 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, Jind (hereinafter referred to as 'the Tribunal') vide award dated 09.07.2015, on account of injuries received by him in a motor vehicular accident which took place on 10.11.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.11.2013, claimant-appellant Samarjeet along with Rakesh son of Om Bhaj was going to attend Gohana rally in a car bearing registration No.HT-31-G-4005. The said car was being driven by claimant-appellant himself. At about 11.30 A.M., when they reached near the bus stand of village Ludana, in the meantime, a bus bearing registration No. HR-32-D-0172 being driven by respondent No.-

Jagdish in a rash and negligent manner, came from behind and struck against the car, as a result of which, both the occupants of car namely Samarjeet and Rakesh suffered injuries. They were shifted to the hospital. With regard to the accident, FIR No.203 dated 12.11.2013, under Sections 279/337 IPC was registered against the driver of offending vehicle i.e. respondent No.1 at police station, Pillukhera on the statement of claimant-Samarjeet. 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 by its driver and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Samarjeet-claimant (PW-1) and Rakesh (PW-2), who was eye witness of the accident. Further, the claimant has also proved on record copy of MLR Ex.P1, FIR Ex.P2, charge-sheet Ex.P3, report under Section 173 Cr.P.C. Ex.P4 etc. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	On account of actual expenses spent on medical treatment	Rs.10,000/-
2.	Physical pain and mental agony	Rs.10,000/-
3.	On account of loss of income during the treatment period of two months at the rate of Rs.6000/- per month	Rs.15,000/-
4.	On account of attendant, special diet expenses and transport expenses.	Rs.10,000/-
	Total	Rs.45,000/-

Hence, the claimant was found entitled to a total compensation

of Rs.45,000/- along with interest at the rate of 9% per annum from the date of award 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. After the accident, injured-claimant was taken to the General Hospital, Jind, where he was medico legally examined and his shoulder was found fractured. He was plastered for a period of 45 days. Thereafter, he was shifted to Manoj Orthopaedic and Maternity Hospital, Jind. So, keeping in view the peculiar facts and circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Compensation on account of medical treatment	Rs.10,000/-
(ii)	Physical pain and mental agony	Rs.15,000/-
(iii)	Loss of income during treatment period	Rs.15,000/-
(iv)	On account of attendant, special diet and transport expenses	Rs.30,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.70,000/-
(vi)	Enhanced amount of compensation	Rs.70,000 – 45,000 = Rs.25,000/-

The enhanced amount of compensation of **Rs.25,000/-** 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 @ 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

20.04.2018
ajp

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