

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

**FAO No.4088 of 2014 (O&M)
Date of decision: 26.03.2018**

Smt. Seema

....Appellant

Versus

Sh. Mangat Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellant.

Mr. Deepak Suri, Advocate,
for respondent No.2- National Insurance Company Ltd.

Mr. A.S. Sidhu, Advocate,
for respondent No.4-ICICI Lombard General Insurance
Company Ltd.

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 14.11.2013 (passed in MACP No.428/13), on account of injuries received by her in a motor vehicular accident which took place on 20.06.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.06.2010, at about 06.20 P.M., Manoj Kumar Sharma (since deceased) along with his family and relatives namely, Smt. Manju, Ms. Yashika, Master Kartavya, Smt. Seema, Master Hrithik Sharma, Ms. Shreya Sharma @ Saria Sharma, Sh. Anil

Kumar, Master Amit Kumar and Smt. Priyanka were going on the road leading from Moonak to Sunam in a car bearing registration No. HR-03-J-9145. When they reached near Government High School, Hamirgarh, a car bearing temporary registration No. HR-99-FS-1396 being driven by Babaljit Singh @ Babli in a rash and negligent manner, came from the opposite side and struck against the car No. HR-03-J-9145, as a result of which, all the occupants of the car received multiple and grievous injuries. They were shifted to the hospital. However, Smt. Manju, Mster Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma succumbed to the injuries at the spot. With regard to the incident, FIR No.95 dated 20.06.2010, under Sections 279/337/338/304-A IPC was registered against driver of the offending vehicle at Police Station, Monak, District Sangrur. Consequently, the claimant-appellants 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 Babaljit Singh @ Babli, as a result of which Manoj Kumar Sharma, Smt. Manju, Master Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma died and Master Kartavya, Yashika, Priyanka, Seema, Anil Sharma and Master Amit Kumar received injuries. Thus, finding on issue no.1 was returned in favour of the claimants. This finding was rightly given on the basis of the deposition of Shimla Rani (PW-1), Seema (PW-2), Sh. Ram Kumar (PW-3), Priyanka (PW-4) and Anil Sharma (PW-5). Further, the claimants have proved on record documents Ex.P1 to Ex.P93. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Compensation on account of cost of medicines and hospitalization charges etc.	Rs.50,000/-
2.	Pain & sufferings, special diet, medicines and transportation etc.	Rs.25,000/-
	Total	Rs.75,000/-

Accordingly, claimant was awarded compensation of Rs.75,000/- 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

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. As per deposition of claimant, after the accident, she was taken to Rajindera Hospital, Patiala, where she remained admitted from 20.06.2010 to 16.07.2010 and was operated upon. Thereafter, she remained admitted in Gian Sagar Medical College, Ram Nagar from 28.01.2011 to 21.02.2011, where her both legs were operated upon on 29.01.2011 and interlocking was done. Then, she was shifted to Chawla Nursing Home and Hospital, Mohali, where she remained admitted from 03.04.2011 to 14.04.2011 and her right leg was operated upon. She has suffered disability to the extent of 32%.

A perusal of the impugned award shows that the claimant was a housewife. Though she suffered disability to the extent of 32%, but her

functional disability is being taken as 30%. At the time of accident, claimant-appellant was 33 years of age. The accident had taken place on 20.06.2010. Since, the disability of claimant has been taken to be 30%, it would be just reasonable if, her notional income is assessed at Rs.7000/- per month. So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Income	Rs.7000/- per month i.e. Rs.84,000/- per annum
(ii)	Future prospects 40%	Rs.84,000 + 33,600 = Rs.1,17,600/-
(iii)	Loss on account of permanent disability (30%)	Rs.1,17,600 x 30% = Rs.35,280/-
(iv)	Compensation after multiplier of 16 is applied	Rs.35,280 x 16 = Rs.5,64,480/-
(v)	Special diet, transportation charges, attendant charges, loss of amenities etc.	Rs.25,000/-
(vi)	Pain and sufferings	Rs.10,000/-
(vii)	Compensation on account of cost of medicines, hospitalization charges etc.	Rs.50,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.6,49,480/-
(ix)	Enhanced amount of compensation	Rs.6,49,480 – 75,000 = Rs.5,74,480/-

The enhanced amount of compensation of **Rs.5,74,480/-** 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

26.03.2018
ajp

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