

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

**F.A.O No. 4091 of 2014
Date of decision:- 26.03.2018**

Ms. Yashika ...Appellant

Versus

Sh. Mangat Ram and Others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Deepak Suri, Advocate,
for respondent No.2-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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 14.11.2013, on account of injuries sustained by the claimant (appellant herein) 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 6.20 P.M., Manoj Kumar Sharma, since deceased, along with his family and relatives namely Smt. Manju, Mrs. Yashika, Master Kartavya, Smt. Seema, Master Hrithik Sharma, Ms. Shreya Sharma @ Saria Sharma, Sh. Anil Kumar, Master Amit Kumar and Smt. Priyanka, car was coming on the road leading from Moonak to Sunam while driving a car bearing registration No. HR-03-J-9145 at a moderate speed and on the

due left side of the road. But when they reached near Government High School, Hamirgarh, a car bearing temporary Registration No. HR-99-FS-1396 came at a very high speed from the opposite direction i.e., from the side of Sunam and while coming on wrong direction of the road, it hit against the car of deceased. The above said car bearing temporary registration No. HR-99-FS-1396 was being driven at a fast speed and in a rash and negligent manner by Babalji Singh @ Babli. Due to the impact of the accident, all the occupants of the car bearing registration No. HR-03-J-9145 received multiple and grievous injuries and immediately after the accident, they were rushed to hospital. Smt. Manju, Master Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma had succumbed to the injuries at the spot. This accident took place because of the rash and negligent driving of driver of the car bearing temporary registration No. HR-99-FS-1396, which was being driven by its driver namely Babalji Singh @ Babli. The matter was reported to Police and in this regard, a criminal case arising out of FIR No. 95 dated 20.06.2010, under Sections 279/337/338/304-A IPC was registered against Babli for causing this accident with his rash and negligent driving at Police Station Moonak, District sangrur (Punjab).

Consequently, claimants-appellants filed a claim petitions 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 Babljit Singh @ Babli or deceased Manoj Kumar or composite negligence of both the drivers of

both the vehicles. At the time of accident appellant/claimant Yashika was 6 years of age and she suffered disability to the extent of 5% qua the whole body

As such, keeping in view the facts and circumstances of the case including the nature of the injuries suffered by her, treatment and its impact, a consolidated amount of Rs.20,000/- has been granted by the Tribunal on account of disability suffered by her in the said accident and claimant must have undergone a lot of pain and suffering and loss of amenities of life during the period she remained under treatment. Then she must have incurred a lot on special diet, medicines and transportation etc., and such keeping in view the nature of injuries and facts and circumstances of the case, it is held that the claimant is also entitled to another sum of Rs.5,000/- on all the above accounts and for medical expenses Sum of Rs.10,000/- awarded. Thus in total claimant Yashika is held entitled to a sum of Rs.35,000/- as compensation for the injuries suffered in this accident.

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

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

REASSESSED COMPENSATION

The fact of accident is admitted and proved.

A perusal of the Award shows that Claimant has suffered grievous injuries in this accident and her jaw was operated upon whereby circumferential wiring was done and stitches were applied on her head. Suturing was also done at the right corner of the mouth, on

right shoulder and on left hand. Hip Spica was applied for fracture of shaft of femur and she was advised for physiotherapy. She remained under the follow up treatment for a period of three months. .

Keeping in view the facts and circumstances, compensation assessed by the Tribunal is on lower side which required to be reassessed and this court awarded Rs.50,000/- towards disability to the extent of 5% which was duly proved by PW6 Dr. Umesh Modi, Senior Medical Officer, Govt. Hospital, Sector-6, Panchkula, Rs.25,000/- under the head of pain and suffering and Rs.40,000/- towards stay in hospital. Hence, a consolidated sum of Rs.115,000/- has been awarded to the claimant.

The enhanced amount of compensation of Rs.115,000-35,000/- (awarded by Tribunal)=80,000/- 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 disbursement of amount shall remain unaltered.

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

26.03.2018

Riya Grover

(RITU BAHRI)

JUDGE

***Whether speaking/reasoned
Whether reportable***

***Yes
No***