

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

**F.A.O No. 4255 of 2014
Date of decision:- 09.03.2018**

Raj Kumar ...Appellants

Versus

Ravi and others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramender Chauhan, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for the 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, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 19.12.2013, on account of injuries sustained by the claimant-Raj Kumar in a motor vehicular accident which took place on 10.09.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 10.09.2011, Rajinder, since deceased, along with his employees namely Vikram (petitioner) and Raja alias Raj Kumar had gone to village Gignau on motorcycle No.HR-19C-3658. On their return journey from village Gignau to Dhigawa, the said motorcycle was being driven by Rajinder and Vikram and Raja @ Raj Kumar were pillion riders. At about 7.00 p.m., when they reached near the fields of Partap Singh, in the meanwhile, a

car bearing registration No. HR-18A-6941 being driven by its driver rashly, negligently and at a high speed came from Bhiwani side and struck against their motorcycle. Due to impact of the accident, the occupants of the motorcycle sustained multiple and grievous injuries on their person. They were removed to CHC Loharu for treatment, where Rajinder succumbed to his injuries, whereas Raja @ Raj Kumar and Vikram were referred to General Hospital, Bhiwani. On the statement of Ramotar brother of deceased Rajinder, an FIR No. 150 dated 11.09.2011, under Sections 279/337/304-AIPC was registered against respondent no.1 against respondent No. 1.

Consequently, claimants-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. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Medical bills and treatment charges	Rs. 92, 850/-
(ii)	Costs of transportation, special diet	Rs. 60,000/-
(iii)	Pain and suffering	Rs. 40,000/-
	Total Compensation	Rs. 1,92,850/-

Feeling dissatisfied with the impugned award, the claimant-appellant have 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. 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 the multiple injuries suffered on his right forearm, left elbow joint, right thigh and right lower part and other injuries resulting permanent disability. As per Ex. PW3/A claimant remained admitted in General Hospital, Bhiwani from 10.09.2011 to 27.09.2011, but Tribunal while assessing the compensation towards pain and suffering did not considered the said facts which should also be granted to claimant under the head of staying in the hospital for about two weeks.

In the present case, the compensation is being reassessed as per the judgments mentioned above:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Medical bills and treatment charges	Rs. 92, 850/-
(ii)	Costs of transportation, special diet	Rs. 60,000/-
(iii)	Pain and suffering	Rs. 40,000/-
(iv)	Compensation towards stay in hospital for 18 days	Rs.18,000/-
	Total Compensation	Rs. 2,10,850/-
	Enhanced amount of compensation	Rs.2,10,850-1,92,850=18,000/-

The enhanced amount of compensation of **Rs.18,000/-** 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 disbursal of amount shall remain unaltered.

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

09.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

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