

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

F.A.O No.2238 of 2016

Date of decision:- 19.04.2018

Sandeep Malik

...Appellant

Versus

Sukhbir Singh and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Girotra, Advocate,
for the appellant.

Ms. Vandana Malhotra, 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, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 05.12.2015, on account of injuries sustained by the claimant in a motor vehicular accident which took place on 09.03.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 09.03.2014, Sandeep along with his wife was going from Rohtak to Meham on his motorcycle bearing registration No.HR-11F-0497, while driving the motorcycle on its correct side and at low speed. At about, 12.40 p.m., when they reached near paper mill in village Bahu Akbarpur a vehicle bearing registration No.HR-56A-1938 which was being driven by respondent No.1 in a rash and negligent manner, suddenly took a U-turn and rammed in the motorcycle of the petitioner, due to which petitioner received serious injuries. On the basis of

the statement of the petitioner, FIR No. 115 dated 10.03.2014, under Sections 279/337 of Indian Penal Code was registered against respondent No.1 at P.S. Sadar, Rohtak.

Consequently, 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 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 claimant. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation on account of pecuniary damages	Rs. 13,000/-
(ii)	Compensation on account of pain and suffering	Rs.15,000/-
(iii)	Compensation on account of special diet, attendant charges, transportation etc.	Rs.5,000/-
	Total Compensation	Rs. 33,000/-

Feeling dissatisfied with the impugned award, the claimant-appellants 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. A perusal of the award shows that claimant remained hospitalized in PGIMS, Rohtak from 09.03.2014 to 24.03.2014 as per discharge certificate Ex. P1 and he again got admitted in Sun Flag Hospital from 16.05.2014 to 18.05.2014 as per Ex.

P21, wherein he was operated. He remained hospitalized for almost 16 days and he had suffered fracture of both bone of the right leg in which nailing was done. Since, the temporary disability would be cured but due to fracture and operation, appellant has suffered pain and suffering and loss of income and compensation awarded by the Tribunal is on lower side which required to be reassessed.

Keeping in view the facts and circumstances, the compensation is being reassessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation towards stay in hospital	Rs. 20,000/-
(ii)	Compensation towards pain and suffering	Rs.20,000/-
(iii)	Loss of income for three months when he remained hospitalized	Rs.7,000x3=21,000/-
(iv)	Compensation towards transportation, attendant charges and special diet	Rs.20,000/-
(v)	Compensation towards pecuniary damages	Rs.13,000/-
	Total reassessed compensation	Rs.94,000/-
	Enhanced amount of compensation	Rs.94,000 -33,000=Rs.61,000/-

The enhanced amount of compensation of **Rs.61,000/-** 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.

19.04.2018
Riya Grover

(RITU BAHRI)
JUDGE

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