

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4958-2014

Date of decision: 22.05.2018

Gurvinder Kaur @ Gulvinder Kaur

...Appellant

V/s.

Pamma alias Paramjit Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None for the appellant.

Mr. Rajneesh Malhotra, Advocate for insurance co.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 04.04.2013 passed by Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') whereby she has been awarded a compensation of Rs.2,10,000/- on account of suffering injuries in a road accident that took place on 12.09.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.09.2010, Raj Kaur alias Raj Rani was going on a motor-cycle bearing registration No. PB-02AD-8107 driven by her brother namely Gurpartap Singh. Raj Kaur and her mother were pillion riders and when they reached in front of New bus stand, Nissing, a tractor Mohindra red colour along with trolley bearing registration No. HR-10B-7578 being driven by Pamma alias Paramjit Singh respondent No. 1 in a rash and negligent manner, came from the back side of the motor-cycle and struck against it. Due to the impact of the accident,

all the occupants of the motor-cycle fell down on the road alongwith the motor-cycle and received multiple and grievous injuries on various parts of their bodies. All the injured were taken to CHC, Nissing. Gurvinder kaur was referred to General Hospital, Karnal and then she remained admitted in General Hospital, Karnal.

With regard to the alleged accident, an FIR (Ex.P4) was registered by Major Singh against the driver of the offending truck.

Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR (Ex.P4) was registered against respondent No. 1. The claimants have also placed on record certified copy of report under Section 173 Cr.P.C. (Ex.P2), copy of site plan (Ex.P3) and copy of FIR (Ex.P4)

The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Medical expenses	Rs.1,99,800/-
(ii)	Pain and suffering, special diet and transportation etc.	10,200/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 2,10,000/-

Hence, the claimant was found entitled to total compensation of Rs.2,10,000/- along with interest @ 7% 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

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

A perusal of the record shows that Gurvinder Kaur-injured had received multiple injuries on various parts of her body. She was treated at CHC Nissing and then at General hospital, Karnal, however, she remained admitted at General Hospital, Karnal from 12.09.2010 to 13.09.2010 and then at Virk hospital, Karnal from 14.09.2010 to 23.09.2010. As per the deposition of PW5 Dr. Balbir Singh, Gurvinder Kaur was admitted in his hospital with road side accident and was having injuries on chest and pelvis. Traction was applied and was discharged on 23.09.2010. The injured also placed on record medical bills and receipts Ex.P6 to P22, total amounting to Rs. 1,99,777/- (say Rs.1,99,800).

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Haryana in the year 2010:-

Sr. No.	HEADS	CALCULATIONS
(i)	Medical expenses	1,99,800
(ii)	Stay in hospital, transportation and attendant	1,00,000
(iii)	Special diet	25,000
(iv)	Pain and suffering	25,000
(v)	TOTAL COMPENSATION AWARDED	Rs. 3,49,800/-
(vi)	ENHANCED AMOUNT OF COMPENSATION	Rs.3,49,800-2,10,000= Rs.1,39,800/-

The enhanced amount of compensation of **Rs.1,39,800/-** 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 V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.***" Remaining conditions of disbursal of amount shall remain unaltered.

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

(RITU BAHRI)
JUDGE

May 22, 2018
Divyanshi

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