

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

F.A.O No. 3399 of 2015

Date of decision:- 01.03.2018

Satender		...Appellant
	Versus	
Suresh and Anothers		...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rakesh Dhiman, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

CM No. 10087-CII of 2015

This is an application for condonation of delay of 870 days in filing the present appeal.

For the averments mentioned in the application, same is allowed subject to condition that claimant will not claim for getting the amount of compensation for this period and delay of 370 days is condoned.

Accordingly, present application stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 01.09.2012, on account of injuries sustained by the claimant-Satender in a motor vehicular accident which took place on 30.09.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 30.09.2010, at about 12.15

p.m., the claimant (Satender) alongwith Sandeep, Surender and Sukhbir alias Kalu were sitting in their Wagon R Car bearing registration No.HR-26-AR-8608 were coming to Pataudi. When they were crossing Janola Bus Stand, meanwhile, offending vehicle truck registration No.HR-19-E-0189 came at a high speed in a rash, negligent manner being driven by its Driver, i.e., respondent no.1 hit the appellant's Wagon R from the front side, the impact was so severe, the driver of Wagon R was came down in Kacha Portion of the road. The petitioner injured were entangled in Wagon R and received grievous injuries,due to grievous injuries Sandeep and Surender were breathed their last at the spot. The matter was reported to the police, vide FIR No.198 dated 30.9.2011, under Sections 279,337,304-A IPC at Police Station Pataudi.

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. Appellant/claimant suffered fracture in both legs and right hand injury, admitted in Mamta Hospital Gurgaon for nine days and still under treatment, was operated both legs and right hand and spent about 3.5 lakhs on the treatment. At the time of accident Appellant/petitioner was 27 years of age being agriculturist and also having a D. J. Shop was earning Rs.18,000/- per month.

This finding was rightly given on the basis of FIR, and

others documentary evidence led by the appellant/claimant. On the basis of documents placed on record i.e. Ex. P38, Ex.39 to Ex. P61 and 62 to Ex. 67. Hence, Tribunal awarded a consolidated amount of Rs. 5,50,000/-.

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. 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 Ex. PW1/A which shows that in the unfortunate accident, he has suffered fracture in both the legs and right hand, unable to move, bed ridden and has become 100% disabled. Tribunal while assessing the amount of compensation does not include amount towards transportation and attendant charges, the same required to be added.

In the present case, the compensation is being reassessed as Rs. 5,50,000/- (will remain same) towards medical bills, medicines diet and expenses to be incurred on his treatment in future and an additional amount of Rs.2,00,000/- towards transportation and attendant charge.

The enhanced amount of compensation of Rs.7,50,000-5,50,000=**Rs.2,00,000/-** 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.

01.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

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