

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

**FAO No.6230 of 2013 (O&M)
Date of decision: 18.01.2018**

Karam Singh

....Appellant

Versus

Sh. Manish Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Ekta Thakur, Advocate,
for the appellant.

Mr. R.S. Madan, Advocate,
for respondent No.3-National 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 03.01.2013, on account of injuries received by him in a motor vehicular accident which took place on 17.01.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.01.2008, claimant-appellant (Karam Singh) was going from village Sohana towards a dairy in Ram Darbar, Phase-II, Chandigarh on a scooter bearing registration No.CH-01-W-7558. At about 8.30 P.M., when he reached near Railway Bridge, Ram Darbar, Chandigarh, a Zen Car bearing registration No. CH-03-N-7464 being driven by respondent No.1-Manish Kumar in a rash and negligent manner, came from opposite side and struck against the scooter, as a result

of which, he fell down on the road and suffered serious and grievous

injuries on various parts of his body, including fracture on his left thigh and right leg below knee. With regard to the accident, FIR Ex.P1 was registered against respondent No.1. Consequently, the 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 taken place on account of rash and negligent driving of offending vehicle i.e. zen car by its driver-respondent No.1 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of claimant-appellant himself, who appeared as PW-1. Moreover, an FIR Ex.P1 was also registered against driver-respondent No.1, in which he was facing a criminal trial. The compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Compensation on account of future loss of earnings	Rs.1,08,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Transportation and special diet	Rs.5000/-
4.	Loss of earning during treatment	Rs.3000/-
	Total	Rs.1,26,000/-

Ultimately, the claimant was found entitled to a total compensation of Rs.1,26,000/- along with interest at the rate of 7.50% 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.

Learned counsel for the appellant has argued that after admission of the appellant in hospital on 17.01.2008, he as discharged on

02.02.2008 and thereafter, he took outdoor treatment till 05.03.2010. He is

seeking grant of compensation on account of loss of income during this period.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. It stands established that claimant-appellant has received injuries as a result of the accident. Dr. Rohit Jindal (PW-2), who was one of the members of the board of doctors, has assessed the disability of the claimant to the extent of 20% with respect to left lower limb. Disability certificate, in this regard, has been proved as Ex.P4. PW-2 has deposed that claimant was diagnosed as a operated case of fracture left distal femur with restrictions of knee movement. Claimant-appellant (PW-1) has deposed that after being admitted on 17.01.2008, he was discharged on 02.02.2008. Thereafter, he remained on bed for about four months. When he came to depose before the Tribunal, he was still under plaster. In cross-examination, he he stated that he had gone to PGI, Chandigarh, for follow-up treatment on 11.02.2010. No question was put to him with regard to the fact, as to whether he had appeared before the Tribunal in a plaster on 05.03.2010. So, on the date of deposition before the Tribunal on 05.03.2010, he was still under plaster. After the accident, till March, 2010 i.e. for 24 months, claimant-appellant could not be expected to earn anything. On the date of accident i.e. 17.01.2008, the minimum wages prevalent were at Rs.4,000/- per month. Therefore, the income of claimant-appellant is being taken as Rs.4,000/- per month. Therefore, loss of earning during the period of treatment (for 24 months) is assessed as Rs.96,000/- (Rs.4000 x 24). Compensation on account of future loss of earning is assessed as Rs.1,44,000/- (Rs.4000 x 20/100 x 12 x 15).

Keeping in view the peculiar circumstances, in which the

injured-claimant had been put, the compensation is required to be enhanced.

Hence, the compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Compensation on account of future loss of earnings	Rs.1,44,000/-
(ii)	Compensation on account of loss of earning during treatment period i.e. for 24 months	Rs.96,000/-
(iii)	Pain and sufferings	Rs.25,000/-
(iv)	Transportation and special diet	Rs.20,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.2,85,000/-
(vi)	Enhanced amount of compensation	Rs.2,85,000 – 1,26,000 = Rs.1,59,000/-

The enhanced amount of compensation of **Rs.1,59,000/-** 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 @ 9% 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 “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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.

(RITU BAHRI)
JUDGE

18.01.2018
ajp

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