

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

**FAO No.5909 of 2014 (O&M)
Date of decision: 10.05.2018**

Rajesh

....Appellant

Versus

Malvinder and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kanwardeep Singh, Advocate,
for the appellant.

Ms. Akanksha, AAG, Punjab.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 12.11.2013, on account of injuries received by him in a motor vehicular accident which took place on 26.12.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.12.2009, at about 8.00 A.M., claimant-appellant (Rajesh) was going from his village towards Karnal while driving three wheeler No.HR-45-AS-3477. When he reached near Pucca Pul Power Hous, Madhuban, G.T., Road, Karnal, in the meantime, a bus bearing registration No. PB-10-CF-7710 being driven by Malvinder-respondent No.1 in a rash and negligent manner, came and hit the three wheeler from behind, as a result of which, three wheeler fell down

and claimant received serious injuries. His right hand, shoulder and right knee got fractured. He was taken to Arpana Hospital by Ram Dass, from where, he was referred to General Hospital, Karnal. Thereafter, he was referred to PGT, Rohtak. With regard to the accident, FIR No.230 dated 26.12.2009, under Sections 279/337/338 IPC was registered at Police Station, Madhuban, Karnal against respondent No.1 i.e. driver of offending vehicle. 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 by its driver and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Rajesh-claimant (PW-1). He also proved on record report under Section 173 Cr.P.C. as Ex.P1. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Treatment, including Medicines	Rs.85,000/-
2	Loss of work/income	Rs.15,000/-
3	Pain and sufferings	Rs.10,000/-
4	Transportation, Special diet, Future expenses etc.	Rs.5,000/-
	Total	Rs.1,15,000/-

Hence, the claimant was found entitled to a total compensation of Rs.1,15,000/- along with interest at the rate of 9% 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

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. Parties are not in dispute with respect to the finding given by the Tribunal on issue No.1 that the accident took place on account of rash and negligent driving of offending vehicle. As per deposition of Dr. Virender Kumar, Professor Head, Department of Oral Surgery Dental College, PGIMS, Rohtak, it was a case of road side accident and patent was reported to the Department of Oral Surgery on 25.12.2009. Patient-Rajesh had suffered nine multiple fracture on lower jaw because of which, he could not be able to chew food properly. He was operated for his problem under general anesthesia. His jaw at fracture side was fixed with plate and screw. He was discharged on 11.01.2010. Claimant had suffered nine multiple fractures in the accident. So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
1.	Compensation for Treatment, including Medicines	Rs.85,000/-
2.	Compensation on account of loss of work/income	Rs.15,000/-
3.	Pain and sufferings	Rs.20,000/-
4.	Transportation, Special diet, Future expenses etc.	Rs.20,000/-
5	TOTAL COMPENSATION AWARDED	Rs.1,40,000/-
6	Enhanced amount of compensation	Rs.1,40,000 – 1,15,000= Rs.25,000/-

The enhanced amount of compensation of **Rs.25,000/-** 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 @ 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 vs. The Oriental Insurance Company Ltd. and others**, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018”. 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

10.05.2018
ajp

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