

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

**FAO No.6053 of 2014 (O&M)
Date of decision: 23.02.2018**

Satish Kumar

....Appellant

Versus

Charanjeet and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Rozera, Advocate,
for the appellant.

Ms. Sheenu Sura, 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, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 25.09.2013, on account of injuries received by him in a motor vehicular accident which took place on 08.08.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.08.2011, claimant-appellant was going from his house towards Govt. Senior Secondary School, Shamgarh on a motorcycle bearing registration No. HR-05-S-8258. His brother-in-law Bir Singh was also going on a separate motorcycle. At about 7.20 A.M., when they reached near Sagar Ratna Hotel and Petrol Pump, G.T. Road, a car bearing registration No. DL-4-CND-5387 being

driven by respondent No.1-Charanjeet in a rash and negligent manner, came

and struck against the motorcycle of claimant, as a result of which, he (claimant) fell down and sustained multiple grievous injuries. His motorcycle was also damaged in the accident. He was taken to General Hospital, Karnal, from where, he was shifted to Virk Hospital, Karnal, where he remained admitted w.e.f. 08.08.2011 to 15.08.2011. Thereafter, he was taken to the hospital of Dr. Rajiv Gupta, Karnal and on 15.08.2011, he was referred to PGI, Chandigarh, where he was operated upon and remained admitted till 27.08.2011. With regard to the accident, FIR No.425 dated 11.08.2011, under Sections 279/337/338 IPC 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 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 Satish Kumar-claimant (PW-1) and Bir Singh (PW-2), who was eye witness of the accident. Further, the claimant has also proved on record copy of FIR Ex.P10. Ultimately, the claim petition was allowed and compensation was awarded, as under:-

Pecuniary damages (Special damages)		
Sr. No.	Heads	Amount
1.	Expenses on medical treatment	Rs.46,566/-
2.	Compensation on account of disability to the extent of 7.5% qua the whole body	Rs.15,000/-
3.	Pain and sufferings	Rs.5,000/-
	Total	Rs.66,566/-

Hence, the claimant was found entitled to a total compensation

of Rs.66,566/- along with interest at the rate of 7.5% 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. Vinod Kumar (PW-4), disability of the claimant was assessed to the extent of 15% qua the particular limb and the same was 7.5%, if converted into whole body. Therefore, the claimant has suffered disability to the extent of 7.5% qua the whole body. Keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Expenses on medical treatment	Rs.46,566/-
(ii)	Compensation on account of disability to the extent of 7.5% qua the whole body	Rs.15,000/-
(iii)	Pain and sufferings	Rs.10,000/-
(iv)	Special diet and attendant charges	Rs.10,000/-
(v)	Loss of amenities	Rs.10,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.91,566/-
(vii)	Enhanced amount of compensation	Rs.91,566 – 66,566 = 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

23.02.2018
ajp

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