

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

**FAO No.6189 of 2014 (O&M)
Date of decision: 23.02.2018**

Jasvir Kaur

....Appellant

Versus

Kulbir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Agnihotri, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.4-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 24.03.2014, on account of injuries received by her in a motor vehicular accident which took place on 09.07.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.07.2012, claimant-appellant was waiting some vehicle for going to her house. In the meantime, her classmate namely Harsh Sharma reached there on his motorcycle bearing registration No.HR-05-P-9633. Claimant boarded the said motorcycle for going home. When they reached near ITI Chowk, a bus bearing registration No.HR-45-A-4650 being driven by respondent No.1-

Kulbir Singh in a rash and negligent manner, came from behind and hit the

motorcycle, as a result of which, both the occupants of motorcycle fell down and received injuries. Claimant was taken to the hospital. With regard to the accident, FIR No.531 dated 09.07.2012, under Sections 279/337 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 Jasvir Kaur-claimant (PW-2). Further, the claimant has also proved on record copy of FIR Ex.P9, report under Section 173 Cr.P.C. Ex.P10 and MLR Ex.P11. 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, hospitalization and medicines etc.	Rs.94,393/-
2.	Compensation on account of permanent disability to the extent of 8%	Rs.16,000/-
3.	Pain and sufferings	Rs.25,000/-
4.	Special diet, future prospects, loss of income and service of attendant charges	Rs.50,000/-
	Total	Rs.1,85,393/- (round figure Rs.1,85,000/-)

Hence, the claimant was found entitled to a total compensation of Rs.1,85,000/- 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. Vinod Kumar (PW-1), he along with other members of the Board had examined patient Jasvir Kaur daughter of Jagtar Singh and assessed her permanent disability to the extent of 8%. This witness had proved the disability certificate as Ex.P1. The claimant was a young girl of 22 years of age at the time of accident. 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, hospitalization and medicines etc.	Rs.94,393/-
(ii)	Compensation on account of permanent disability to the extent of 8%	Rs.16,000/-
(iii)	Pain and sufferings	Rs.50,000/-
(iv)	Special diet, future prospects, loss of income and service of attendant charges	Rs.75,000/-
(v)	Loss of amenities	Rs.20,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.2,55,393/-
(vii)	Enhanced amount of compensation	Rs.2,55,393 – 1,85,000 = Rs.70,393/-

The enhanced amount of compensation of **Rs.70,393/-** 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