

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

Sr. No.230

FAO No.5542 of 2015 (O&M)
DECIDED ON: October 23, 2018

MANGAL RAM

..APPELLANT

VERSUS

AMARJEWET AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

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

Mr. Suvir Dewan, Advocate,
for respondent No.3-Insurance Co.

AJAY TEWARI, J. (ORAL)

This is an appeal for enhancement of compensation and for modifying the award dated 22.04.2015 passed by the Motor Accidents Claims Tribunal, Panchkula granting compensation of Rs.59,237/- along with interest @ 6% per annum in favour of the appellant and against the respondents.

The brief facts of the case are that on 23.10.2012 at about 08.45 PM, the claimant was going towards Dharampur, District Solan, for selling bed-sheets, while travelling on motorcycle bearing registration No.HR-49-

FAO No.5542 of 2015 (O&M)

C-3625 near Village Jabli, Tehsil Kasauli, was hit by a car bearing No.HP-09-B-0252, being driven by respondent No.1 in a very rash and negligent manner. Respondent No.1 was driving the car on wrong side of the road in a zig-zag manner. Claimant along with motorcycle fell down on the road and suffered injuries. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the respondent No.1 and ordered the compensation as mentioned above.

Counsel for the appellant has argued that the appellant had suffered 10% disability in relation to his right lower limb and nothing has been paid to him on account of the same. Counsel for the respondent No.3 is not in a position to deny this. I find this to be indeed so and it is held that Rs.10,000/- has to be awarded for 10% disability.

Counsel for the appellant has further argued that Tribunal has awarded a trivial sum of Rs.8000/- on account of hospitalization, pain and sufferings. Counsel for the respondent No.3 is not in a position to deny this. I find favour in this argument also and grant a sum of Rs.8,000/- more for 8 days hospitalization and Rs.12000/- more for pain and suffering.

Counsel for the appellant further states that nothing has been awarded on account of attendant charges. Counsel for the respondent No.3 is not in a position to deny this. I find favour in this argument also and grant a sum of Rs.8,000/- for attendant charges.

Learned counsel for the appellant has further argued that interest @ 6% per annum has been granted in this case whereas as per the judgment passed in "***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***" in ***Civil Appeal No. 9581 of***

FAO No.5542 of 2015 (O&M)

2018 decided on 18.9.2018 the Supreme Court has awarded interest at the rate of 12% on the entire compensation. Counsel for the insurance company points out that in subsequent judgment of Three Judges Bench passed in Civil Appeal No. 10588-89 of 2018 decided on 12.10.2018 titled as ***“Sebastiani Lakea and others vs. National Insurance Company Ltd. and others”*** the Supreme Court had awarded compensation with interest at the rate of 9% per annum. Keeping in view both the judgments, I deem it appropriate to award interest @ 10% per annum in this case on the entire compensation.

Appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 23, 2018

Ankur

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No