

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

**FAO No.6673 of 2015 (O&M)
Date of decision: 23.02.2018**

Smt. Ramesh Rani

....Appellant

Versus

Gurpreet Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. C.S. Singhal, Advocate,
for the appellant.

Mr. Pardeep Goyal, 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, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 17.11.2014, on account of injuries received by her in a motor vehicular accident which took place on 04.02.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.02.2014, at about 10.00A.M., claimant-appellant along with her son was going from her house towards Karasan on Activa Hero Honda. When they were standing near the bus stand on the right side for crossing the road, a bus bearing registration NO.HR-37-C-0285 being driven by respondent No.1-Gurpreet Singh in a rash and negligent manner, came and struck against the Activa scooter, as a

result of which, she received injuries on her right leg and foot. Tyre of the

bus crushed her left leg. The said accident was witnessed by Sunil Kumar son of Krishan Lal and other persons, who were present there. After the accident, she was taken to Government Hospital, Ambala Cantt, from where she was taken to C. Lal Hospital, Ambala Cantt, for further treatment. 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 Ramesh Rani-claimant (PW-1) and Sunil Kumar (PW-2), who was eye witness of the accident. Further, the claimant has also proved on record copy of MLR Ex.P1, receipts Ex.P2 & Ex.P3, medical bills Ex.P5 to Ex.P29 and copy of FIR Mark-A. Ultimately, the claim petition was allowed and compensation was awarded in view of the judgment passed in **Raj Kumar vs. Ajay Kumar** 2011 (1) SCC 343, as under:-

Pecuniary damages (Special damages)		
Sr. No.	Heads	Amount
1.	Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure	Rs.62,406/- + Rs.32,000/- (Rs.1000/- per day as indoor patient between 04.02.2014 to 08.02.2014) = Rs.94,406/-
2.	Loss of earning during the period of treatment	Rs.6,000/-
3.	Future medical expenses	Rs.15,000/-
Non-pecuniary damages (General damages)		

4.	Damages for pain, suffering and trauma as a consequence of the injuries	Rs.10,000/-
5.	Loss of amenities (and /or loss of prospects of marriage)	Rs.10,000/-
	Total	Rs.1,35,406/-

Hence, the claimant was found entitled to a total compensation of Rs.1,35,406/- 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. Sudha Bajaj (PW-3), claimant-Ramesh Rani was admitted in Govt. Hospital, Ambala Cantt. on 04.02.2014 with history of accident injuries. On examination, it was found that the patient had crush injury left foot with exposed tendons, deformed left leg and tenderness was present. Dr. K.K.Gandotra (PW-5) deposed that Ramesh Rani remained admitted in their hospital w.e.f. 01.03.2014 to 08.03.2014. She was having operated case of fracture of both bones of left leg with crush injuries. Keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Expenses relating to treatment, hospitalization and medicines	Rs.62,406/- + Rs.32,000/- = Rs.94,406/-
(ii)	Loss of earning during the period of treatment	Rs.6,000/-

(iii)	Future medical expenses	Rs.15,000/-
(iv)	Damages for pain, suffering and trauma as a consequence of the injuries	Rs.20,000/-
(v)	Special diet and transportation	Rs.20,000/-
(vi)	Loss of amenities (and /or loss of prospects of marriage)	Rs.20,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.1,75,406/-
(viii)	Enhanced amount of compensation	Rs.1,75,406 – 1,35,406 = Rs.40,000/-

The enhanced amount of compensation of **Rs.40,000/-** 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