

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

**FAO No.7792 of 2015 (O&M)
Date of decision: 16.04.2018**

Sonu

....Appellant

Versus

Surender and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mukesh Yadav, Advocate,
for the appellant.

Ms. Manpreet Kaur, Advocate,
for Mr. Chanderhas Yadav, Advocate,
for respondent No.1.

Mr. P.K. Garg, AAG, Haryana.

Mr. S.P. Arora, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.24460-CII of 2015

In view of the averments mentioned in the application, same is allowed and delay of 188 days in filing of the appeal is condoned.

FAO No.7792 of 2015

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 03.01.2015, on account of injuries received by him in a motor vehicular accident which took place on 10.05.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.05.2013, claimant-appellant (Sonu) had gone to village Banar for bringing his wife, but his in-laws had told him that they would send his wife after 3-4 days. On 10.05.2013, he was standing at bus stand, Datal for taking a bus to Nangal Chaudhary. At about 12.00 noon, claimant took lift from one motorcyclist, who came from the side of Kotputli. When they covered a little distance from the bus stand, in the meantime, a Haryana Roadways bus bearing registration No. HR-66-6114, being driven by Surender-respondent No.1 in a rash and negligent manner, came from behind and struck against the motorcycle, as a result of which, claimant fell down on the road and his legs were crushed under the bus. He was taken to Government Hospital, Nangal Chaudhary, from where, he was referred to SMS Hospital, Narnaul, where he remained admitted w.e.f. 10.05.2013 to 29.05.2013. as an indoor patient. With regard to the accident, FIR No.92 dated 15.05.2013, under Sections 279/337 IPC was registered at Police Station, Nangal Chaudhary 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 Sonu-claimant (PW-1). Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Compensation for medical treatment	Rs.36,000/-

2	Compensation on account of permanent disability to the extent fo 7% and loss of enjoyment and amenities of life	Rs.14,000/-
3	Pain and sufferings	Rs.10,000/-
4	Transportation	Rs.5,000/-
5	Special/nutritious diet	Rs.3,000/-
	Total	Rs.68,000/-

Hence, the claimant was found entitled to a total compensation of Rs.68,000/- 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 Giriraj Parshad, Medical Record Keeper, SMS Hospital, Jaipur (PW-2), Sonu-claimant remained admitted in their hospital w.e.f. 10.05.2013 to 29.05.2013 and was operated upon by the doctors. 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 medical treatment	Rs.36,000/-
2.	Compensation on account of permanent disability to the extent fo 7% and loss of enjoyment and amenities of life	Rs.14,000/-
3.	Pain and sufferings	Rs.20,000/-
4.	Transportation	Rs.10,000/-
5.	Special/nutritious diet	Rs.10,000/-

6	TOTAL COMPENSATION AWARDED	Rs.90,000/-
7	Enhanced amount of compensation	Rs.90,000 – 68,000= Rs.22,000/-

The enhanced amount of compensation of **Rs.22,000/-** 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

16.04.2018
ajp

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