

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

F.A.O No. 2180 of 2017

Date of decision:- 22.02.2018

Sarita

...Appellant

Versus

Paramjit and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ved Parkash, Advocate,
for the appellant.

Mr. R.C. Kapoor, Advocate,
for the insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 24.8.2016, on account of injuries sustained by Claimant-Sarita in a motor vehicular accident which took place on 15.05.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 15.05.2012, the petitioner Sarita along with her sister, Asha, since deceased, and elder brother Vijay was coming back from Government School of Village Khewra, District Sonapat to their house. Some other students were also coming with them. At about 2 pm they reached near the fields of Virender son of Rameshwar at village Khewra, Bahalgarh road. In the meantime, the offending vehicle i.e. Scorpio No. HR14-H-1199 being driven by respondent No. 1 in a rash and negligent manner, came from opposite side and struck against deceased Asha, petitioner Sarita and some other students namely Anuj and Neha. Thereafter, the offending

vehicle turned turtle. In the accident, the petitioner sustained injuries on her head. Deceased Asha sustained injuries on her hand and legs. In this regard, an FIR NO. 154 dated 15.05.2012 was registered against respondent No. 1 in the police Station, Rai, under Sections 279/337/338/304-A IPC. Consequently, 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 been caused on account of negligent driving of offending vehicle by respondent No.1. This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant i.e. Disability certificate as Ex. P2 which shows that he has suffered permanent disability due to the accident to the extent of 20% and it may be assumed that the petitioner have spent some amount of treatment on transportation and special diet. Keeping in view all facts and circumstances of the case, a sum of Rs.70,000/- is allowed to the petitioner as compensation.

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Parties are not in dispute with regard to findings on issue no. 1 that the accident took place due to rash and negligent driving by respondent no.1. A perusal of the award shows that the claimant was brilliant student of 6th class

but due to accident she has suffered permanent disability to the extent of 25% as proved by Ex. P2. Keeping in view all the facts and circumstances of the case and to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed.

In the present case, the compensation is being reassessed as per the judgments mentioned above:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Compensation on account of permanent disability	Rs.50,000/-
(ii)	Pain and Suffering	Rs.25,000/-
(iii)	Transportation and special diet	Rs.25,000/-
	Total amount of compensation awarded	Rs.1,00,000/-
	Total Enhanced amount of compensation	Rs.1,00,000-70,000=30,000/-

The enhanced amount of compensation of **Rs.30,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

22.02.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No