

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

**FAO No.3555 of 2017 (O&M)
Date of decision: 16.02.2018**

Sanjeev

....Appellant

Versus

Ghure Sahni and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harish Nain, Advocate,
for the appellant.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.11500-CII of 2017

In view of the averments mentioned in the application, same is allowed and delay of 116 days in filing of the appeal is condoned.

FAO No.3555 of 2017

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 08.07.2016, on account of injuries received by him in a motor vehicular accident which took place on 04.05.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.05.2015, at about 10:00

A.M., claimant-appellant was going from village Liwaspur to Bahalgarh on

on a motorcycle bearing registration No. HR-10-G-3474. When he reached on

the Delhi-Panipat G.T. Road, a canter bearing registration No. DL-1M-4424 being driven by respondent No.1-Ghure Sahni in a rash and negligent manner, came and hit the motorcycle from behind, as a result of which, claimant-appellant received injuries. With regard to the accident, FIR Ex.P1 was registered against the driver of offending vehicle i.e. 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 (canter) by its driver-respondent No.1 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Sanjeev-claimant (PW-1), who proved on record FIR Ex.P1, which was registered against the driver of offending vehicle. Ultimately, the claim petition was accepted by the Tribunal and compensation was awarded as under:-

Sr. No.	Heads	Amount (Rs.)
1.	For medical expenses	Rs.2,76,976/-
2.	For pain & suffering	Rs.25,000/-
3.	Loss of income	Rs.61,200/-
4	For transportation	Rs.5000/-
5	For attendant charges	Rs.5000/-
6	Special diet	Rs.5000/-
7	Physical disability	Rs.30,000/-
	Total	Rs.4,08,176/-

Hence, the claimant was found entitled to a total compensation of Rs.4,08,176/- 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. It stands established that claimant-appellant has received injuries as a result of the accident in question.

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 by its driver-respondent No.1. Learned counsel for the appellant has argued that as per disability certificate, claimant-appellant has suffered disability to the extent of 30%.

A perusal of the impugned award shows that the claimant has suffered disability to the extent of 30%. However, the Tribunal has assessed the function disability to the extent of 15%. Moreover, claimant-appellant had remained in hospital w.e.f. 04.05.2015 to 01.06.2015, as he had suffered fractures. So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	For medical expenses	Rs.2,76,976/-
(ii)	For pain & suffering	Rs.30,000/-
(iii)	Loss of income	Rs.61,200/-
(iv)	For transportation	Rs.30,000/-
(v)	For attendant charges	Rs.30,000/-
(vi)	Special diet	Rs.5000/-
(vii)	Physical disability	Rs.30,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.4,63,176/-
(ix)	Enhanced amount of compensation	Rs.4,63,176 – 4,08,176 = Rs.55,000/-

The enhanced amount of compensation of **Rs.55,000/-** 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 @ 9% 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 “***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others***”, 2015(1) SCC 539. 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

16.02.2018
ajp

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