

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

**FAO No.4561 of 2017 (O&M)
Date of decision: 16.04.2018**

Shakeel Ahmad

....Appellant

Versus

Gurpreet Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naresh Kumar Bansal, Advocate,
for the appellant.

Mr. Paul S. Saini, 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 28.01.2016, on account of injuries received by him in a motor vehicular accident which took place on 12.06.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.06.2014, at about 12.30 P.M., claimant-appellant was going towards his work place at Furniture Market, Sector 53, Chandigarh on a motorcycle bearing registration No. UP-20-W-3046. When he reached near PCL Chowk, Mohali, one bus bearing registration No. PB-07-AL-1091 being driven by respondent No.1-Gurpreet Singh in a rash and negligent manner, came and struck against the

motorcycle, as a result of which, claimant-appellant fell down along with

motorcycle and sustained multiple serious injuries, including fracture of jaw. He was taken to PGI, Chandigarh, where he remained admitted. With regard to the accident, FIR No.93 dated 14.06.2014, under Sections 279/337/338/427 IPC was registered at Police Station, Mataur, District Mohali, 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 Shakeel Ahmad-claimant (PW-1). Further, the claimant has also proved on record FIR Ex.P1. Ultimately, the claim petition was allowed and compensation was awarded as under:-

Sr. No.	Heads	Amount
1.	Loss of earning	Rs.45,000/-
2.	Compensation on account of expenses incurred on medical treatment	Rs.35,228/-
3.	Compensation on account of hospitalization	Rs.5,000/-
4.	Compensation on account of pain and sufferings	Rs.5,000/-
5.	Compensation on account of nutritious diet	Rs.3,000/-
6.	Expenses incurred on transportation	Rs.2,000/-
7.	Expenses incurred on repair of motorcycle of claimant	Rs.15,844/-
	Total	Rs.1,11,072/-

Hence, the claimant was found entitled to a total compensation

of Rs.1,11,072/-. 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. Ganesh Sharma (PW-2) stated that he knew Shakeel Ahmad and he was working as Sofa Maker in his shop. He further deposed that due to injuries, claimant could not come to work from 12.06.2014 to 31.12.2014. The Tribunal has taken the income of claimant-appellant as Rs.15,000/- per month and awarded a sum of Rs.45,000/- towards loss of income for three months. But, as per deposition of PW-2, claimant-appellant could not come to work for about 6½ months i.e. w.e.f. 12.06.2014 to 31.12.2014. Therefore, compensation towards loss of income should have been awarded as Rs.97,500/- (15000 x 6½). So, keeping in view the peculiar circumstances of the case, compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
1.	Loss of earning	Rs.97,500/-
2.	Compensation on account of expenses incurred on medical treatment	Rs.35,228/-
3.	Compensation on account of hospitalization	Rs.10,000/-
4.	Compensation on account of pain and sufferings	Rs.10,000/-
5.	Compensation on account of special/nutritious diet	Rs.10,000/-
6.	Expenses incurred on transportation	Rs.10,000/-
7.	Expenses incurred on repair of motorcycle of claimant	Rs.15,844/-

8	TOTAL COMPENSATION AWARDED	Rs.1,88,572/-
9	Enhanced amount of compensation	Rs.1,88,572 – 1,11,072= Rs.77,500/-

The enhanced amount of compensation of **Rs.77,500/-** 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