

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

**CM Nos.10994-10995-CII of 2018 in/and  
FAO No.566 of 2000 (O&M)  
Date of decision: 31.10.2019**

Nitya Nand

....Appellant

Versus

Sher Singh and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. M.L. Saini, Advocate,  
for applicant-appellant.

Mr. Suvir Dewan, Advocate,  
for respondent No.3-Insurance Company.

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**RITU BAHRI J. (Oral)**

**CM No.10994-CII of 2018**

For the reasons mentioned in the application, same is allowed and delay of 4 years and 104 days in filing of the application for restoration of appeal, is condoned.

**CM No.10995-CII of 2018**

The application is for restoration of the main appeal, which has been dismissed for non prosecution vide order dated 06.02.2014.

In view of the averments mentioned in the application, the main appeal i.e. FAO No.566 of 2000 is restored to its original number and taken up today itself.

Misc. application stands allowed accordingly.

**FAO No.566 of 2000 (O&M)**

This appeal has been filed by claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 01.10.1999 on account of injuries received by him in a motor vehicular accident which took place on 22.09.1998.

Brief facts of the case are that on 22.09.1998, Nitya Nand (appellant) was going from Narnaul to Behror on a motorcycle No. HR-35-2100. At about 7.30 A.M., when he reached near bus-stop of village Baddu, a bus bearing registration No. RJ-02-P-1146, being driven by Sher Singh-respondent No.1 in a rash and negligent manner, came from the opposite side. On seeing the bus, claimant took his motorcycle on the katcha berm, but despite that a glass pane of the window fell on him causing serious injuries on his face, forehead and head. The accident was witnessed by Rajesh Kumar and Rajpal. With regard to the accident, FIR No.422 dated 10.10.1998, under Sections 279/337 IPC was registered at Police Station, Behror against respondent No.1. Consequently, the claimant-appellant filed claim petition before the Tribunal.

On the basis of evidence led by the parties, Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver i.e. respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Nitya Nand, claimant (PW-2) and Raj Pal Yadav (PW-1), who was eye witness of the accident. Further, the claimant has proved on record copy of MLR Ex.P3 and FIR

compensation was awarded as under:-

| Sr. No. | Heads                                                                                               | Amount      |
|---------|-----------------------------------------------------------------------------------------------------|-------------|
| 1.      | Compensation for General damages i.e. on account of injuries, pain and suffering, mental shock etc. | Rs.35,000/- |
| 2.      | For Special damages i.e. medical expenses, medicines, special diet, transportation etc.             | Rs.15,000/- |
|         | Total                                                                                               | Rs.50,000/- |

Hence, the claimant was found entitled to a total compensation of Rs.50,000/- along with interest at the rate of 12% 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.

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 the claimant has received injuries as a result of the accident. The claimant-appellant is seeking compensation of Rs.1,00,000/- on account of expenditure incurred on medical treatment. But, there was no evidence on record to prove that he had spent such amount on his treatment. No cash memo of the bills has been proved on record. Further, a perusal of the impugned award shows that after the accident in question, claimant-appellant has not suffered any permanent disability. The Tribunal has already awarded Rs.35,000/- under the head 'general damages' and Rs.15,000/- as 'special damages. Meaning thereby, adequate compensation has been awarded by the Tribunal.

After going through the impugned Award, this Court is of the view that the compensation has been rightly assessed by the Tribunal after

appreciating evidence in the right perspective. No ground is made out to interfere therein.

Resultantly, finding no merits, present appeal is dismissed.

**(RITU BAHRI)**  
**JUDGE**

31.10.2019  
ajp

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