

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

FAO No. 3966 of 2012

Date of decision:- 08.08.2019

Rinku Kumari

...Appellant

Versus

Sunil Kumar and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None

RITU BAHRI J. (Oral)

The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 30.09.2009 passed by the learned Motor Accident Claims Tribunal (Adhoc), Fast Track Court Rewari (for short, 'the Tribunal') to the tune of Rs.60,000/-.

FACTS NOT IN DISPUTE

On 09.11.2005, appellant was going from her school from Bhojawas to her village Uncha on her bicycle and when she reached near Gomti Mode at Bhojawas Kund Road, then a tractor bearing No. HR-34-B-0545 being driven by respondent No. 1 in a rash and negligent manner came from opposite side, hit in to the appellant and her bicycle, she consequently sustained multiple injuries. F.I.R No. 156 dated 11.11.2005 under Sections 279/337/338 IPC was registered against respondent No. 1 at Police Station Kanina, District Rewari.

It is not in dispute that the accident had taken place, as the appellant has proved the accident. P.W.5 Krishan Kumar Constable proved the above F.I.R (Ex PW5/1). He submitted the report under Section 173

Cr.P.C which has been filed in the Court on 04.12.2005.

P.W.1 Dr. P.C Singla stated that on 09.11.2005, the appellant was brought to his hospital. She had fracture in her right thigh for which she was operated on 10.11.2005 and was discharged on 17.11.2005. He proved the discharge summary Ex P3. The doctor has proved the disability certificate indicating that the disability of the appellant as 10%, as per disability certificate Ex P6.

COMPENSATION ASSESSED BY MACT

Medical Expenses	Rs.42,542.40
Pain and suffering	Rs.10,000/-
Misc. Expenses	Rs.7547.60
<i>Total compensation</i>	<i>Rs. 60000/-</i>

Even though the Advocates are on strike, the compensation requires to be re-assessed.

As per disability certificate (Ex P6), the disability is on account of fracture and is likely to be improved with the passage of time.

After going through the contents of the appeal and going through the award passed by the Tribunal, the compensation is required to be re-assessed as under:-

Medical Expenses	Rs.42,542/-
Pain and suffering	Rs.10,000/-
Special diet and attendant charges	Rs.20,000/-
Disability	Rs.10,000/-
Misc. Expenses	Rs.7547/-
<i>Total compensation</i>	<i>Rs. 90089/-</i>
<i>Enhanced compensation</i>	<i>90089-60000=Rs.30089/-</i>
	<i>(Rounded off to Rs.30,000/-)</i>

The enhanced amount of compensation of Rs.30,000/- shall be

payable within a period of forty five days 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, in view of judgment of Hon'ble the Apex Court in ***Civil Appeal No. 4528-2019 titled as Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019***. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

08.08.2019
G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No