

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2435 of 2004 (O&M)
Date of Decision: May 15, 2015

Kiranjit Singh Bassi

...Appellant

Versus

Brij Mohan Aggarwal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Akshay Kumar Goel, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr.R.K.Bashamboo, Advocate
for respondent No.3.

INDERJIT SINGH, J.

The present appeal has been filed by appellant Kiranjit Singh Bassi against respondents Brij Mohan Aggarwal owner, Janak Raj driver and The New India Assurance Company Limited, Insurer of the truck bearing registration No.HR-37A-2085 (offending vehicle) challenging the impugned Award dated 14.10.2003 passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal'), for enhancement of the compensation amount.

The brief facts of the case are that appellant filed claim petition stating therein that he is practising as an Advocate at Hon'ble High Court of Punjab and Haryana for the last 14 years. On

11.10.2001, he was coming from Chandigarh to Patiala in his Indica car bearing registration No.HP-18-4003 after conducting the cases at High Court. At about 5.30 P.M., when he crossed Gagan Chowk, Rajpura, a truck bearing registration No.HR37A-2085 being driven by respondent-driver in a rash and negligent manner, struck against the car of the claimant on its left side. It is further stated in the claim petition that claimant spent ₹85082/- for the repair of the car and ₹7080/- on the painting of the car i.e. in all a sum of ₹92,162/- were spent by the claimant. It is also stated that damage to the car also depreciated its market value and the original price of the car was ₹3.5 lacs. The claimant also stated that he suffered extensive loss in his profession as he could not meet his clients for a period of more than one month, who have been coming from far off areas on Saturdays and Sundays. Claimant claimed compensation of ₹4 lacs.

Respondents owner and driver filed written statement and denied the accident and damage to the car. Respondent-Insurance Company filed separate written statement.

On the basis of evidence produced by the parties, the claim petition was allowed by the Tribunal vide impugned Award dated 14.10.2003 and an amount of ₹70,000/- was granted as compensation.

Aggrieved from the above-said Award, present appeal has been filed for enhancement of the compensation.

Notice of motion was issued and respondent No.3 appeared and contested the appeal. Learned counsel for respondents

No.1 and 2 was earlier appearing but today, none appeared on behalf of respondents No.1 and 2.

I have heard learned counsel for the parties and have gone through the record.

The perusal of the evidence on record shows that the Tribunal on the basis of evidence and bills, reached to the conclusion that a sum of ₹92,162/- has been spent on the repair of the car and also that the claimant suffered loss of income in his profession during the period the car remained in the garage for repair. The Tribunal after taking all these facts into consideration, awarded ₹70,000/- to the claimant as compensation.

From the record, I find that there is no cogent evidence on the record that due to the damage to the car, any loss of income was suffered by the claimant-appellant in his profession. There is no evidence on record as to what was his earlier income and what was the income after the accident. Otherwise also, compensation regarding loss of income in claimant's profession is not a direct consequence of the accident.

Further, I find that when the Tribunal has reached to the conclusion from the bills produced by the claimant that an amount of ₹92,162/- has been spent on the repair and paint of the car etc. then, no reason or ground has been given as to why it was decreased to ₹70,000/-. There is no cogent evidence on record to decrease the amount which was actually spent. In the claim petition, the claimant has stated that he has spent ₹92,162/- for the repair and painting of

the car etc.

In view of the above discussion, I find that the claimant-appellant is entitled to compensation of ₹92,162/- as proved by him by bringing the evidence and bills etc.

The appeal is allowed accordingly and the awarded amount is enhanced to ₹92,162/- from ₹70,000/-. The appellant is also be entitled to the interest @ 7.5% per annum on the enhanced amount from the date of filing of claim petition till its realization.

May 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE