

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3431 of 2012 (O&M)
Date of Decision: July 22, 2015

Sarfudin

...Appellant

Versus

Nabi Khan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashish Gupta, Advocate
for the appellant.

Mr.Tejnder K. Joshi, Advocate
for respondent No.3-Insurance Company.

INDERJIT SINGH, J.

Appellant-claimant Sarfudin has filed this appeal against respondents Nabi Khan, driver, Sahun Khan, owner and Shri Ram General Insurance Company, Insurer of Maruti Van bearing registration No.HR-27J-0388 (offending vehicle), challenging the impugned Award dated 20.07.2011 passed by learned Motor Accident Claims Tribunal, Nuh District Mewat (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the Tribunal.

The brief facts of the case are that claimant-appellant Sarfudin filed claim petition against respondents Nabi Khan, driver, Sahul Khan, owner and Shri Ram General Insurance Company Ltd., Insurer of offending vehicle. It is mainly stated that on 07.06.2009 at about 5.00 P.M., the claimant along with Waldeen was going on motorcycle after meeting his sisters. When they reached near village

Khedla, a maruti Van came from opposite side being driven by Nabi Khan rashly and negligently and struck against the motorcycle from front side due to which claimant along with Waldeen fell down on the road and received injuries. They were shifted to CHC, Nuh from where they were shifted to General Hospital, Mandikhera. Claimant-appellant was 50 years of age and he was a milk vendor and earning ₹5000/- per month. He remained admitted in the hospital for 15 days and spent more than ₹1 lac on his treatment etc.

The Tribunal, after framing of the issues and after discussing the evidence, awarded ₹80,000/- along with interest @ 6% per annum from the date of filing of the petition till realization, to the claimant-appellant.

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

Notice of motion was only issued to respondent-Insurance Company as both the counsel for the parties submitted that there is no need to issue notice to respondents No.1 and 2 (driver and owner) as the liability has been fixed by the Tribunal on the Insurance Company. Learned counsel for respondent No.3-Insurance company appeared and contested the appeal.

At the time of arguments, learned counsel for the appellants-claimants argued that compensation awarded to the claimant-appellant is liable to be enhanced.

On the other hand, learned counsel for the Insurance Company argued that compensation has been correctly awarded by

the Tribunal.

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

The perusal of the record, shows that Ex.P2 is the disability certificate of Sarfudin, according to which, there is disability to the extent of 40% on account of mal united fracture lower and right radius with dinner fork deformity and limitation of wrist movements and knee movements etc. The Tribunal awarded ₹80,000/- in lumpsum to Sarfudin on all counts. No amount has been specifically granted on the ground of permanent disability, special diet, pain and suffering, transportation charges, attendant charges, medical expenses and loss of income during the period the claimant-appellant remained admitted in hospital and could not do his routine work. The claimant has also suffered disability of 40% as per Ex.P2. Therefore, granting of ₹80,000/- in lumpsum as compensation is not as per law.

In view of the above, I find merit in the present appeal and compensation is liable to be enhanced as under:-

Income	₹5,000/- per month
40% permanent disability and annual loss	₹2,000/- x 12 = ₹24,000/-
Multiplier of 9 in view of the age	₹24,000/- x 9 = ₹2,16,000/-
Special diet	₹10,000/-
Pain and suffering	₹20,000/-
Transportation charges	₹10,000/-
Attendant charges	₹10,000/-
Medical expenses	₹25,000/
Loss of income during the period remained admitted in hospital	₹10,000/-
Total compensation	₹3,01,000/-

In view of above, the appellant-claimant is entitled to total compensation of ₹3,01,000/- along with the same interest on the enhanced amount as awarded by the Tribunal from the date of filing of the petition till realization.

Therefore, finding merit in the present appeal, the same is allowed accordingly.

July 22, 2015
Vgulati

(INDERJIT SINGH)
JUDGE