

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

FAO No.1878 of 1998 (O&M)

Date of decision : 16.12.2016

Hari Chand

.....Appellants

Versus

Sada Nath and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Ms. Monika Arora, Advocate for appellant.

Mr. Gunjan Mehta, Advocate for respondent No.1.

Mr. Vishal Kashyap, AAG Haryana for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 08.05.1998, passed by the learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter called the “Tribunal”), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellant-claimant has been awarded compensation to the tune of ₹67,870/- on account of the injuries suffered by him in the motor vehicular accident which took place on 23.03.1997.

2. The present appeal has been preferred by the appellant-claimant for enhancement of the amount of compensation.

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

the record carefully.

4. Initiating the arguments, learned counsel for the appellant-claimant contended that learned Tribunal has not awarded any compensation to the claimant towards the disability suffered by him. Very less amount of compensation has been awarded to him towards loss of amenity and enjoyment of life. Thus, she contended that learned Tribunal has not awarded the just amount of compensation to the appellant-claimant.

5. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded the just compensation. There is no evidence to establish that the claimant has suffered any loss of future income due to the minor disability suffered by him. He further contended that just and appropriate amount of compensation have been awarded by the learned Tribunal under all other heads and the impugned award does not call for any interference.

6. I have duly considered the aforesaid contentions.

7. It is pertinent to mention that initially the claim petition filed by the claimant was decided by the learned Motor Accidents Claims Tribunal, Kurukshetra vide award dated 08.05.1998 and he was awarded compensation to the tune of ₹67,870/-. During the pendency of the appeal, this Court vide order dated 30.01.2014 allowed the appellant to lead the additional evidence and the report of the learned Tribunal was called for. The learned Tribunal after recording the additional evidence, gave its report dated 18.10.2014 and appellant-claimant Hari Chand was held entitled to compensation to the tune of ₹1,68,366/-.

8. From the evidence on record, it comes out that the appellant-claimant has suffered total 7% disability due to shortening of right lower limb and mild restriction of movement of right ankle joint. AW-6 Dr. C.R. Khatri clarified in the cross examination that the disability to the extent of 3% was attributal to the loss of movement of the right ankle joint, which was likely to improve with the passage of time with physiotherapy. However, 4% disability was of permanent nature. This fact is not disputed that the appellant-claimant was working as a Lineman in the Haryana State Electricity Board and no evidence has been led to establish that he has suffered any loss of income due to 4% permanent disability suffered by him. However, on account of this permanent disability he might have faced difficulty, so he will be entitled to ₹10,000/- in lump sum as compensation on account of permanent disability suffered by him.

9. He also suffered 3% temporary disability for which he was required physiotherapy, so he has to spent money on physiotherapy and will be entitled to ₹5000/- on account of temporary disability.

10. Learned Tribunal has awarded a lump sum amount of ₹20,000/- on account of mental and physical shock, pain and suffering, non-attending of duties at least for four months and loss of enjoyment of life. The aforesaid amount appears to be inadequate. The appellant-claimant has suffered fracture as a result of which he suffered shortening of right lower limb. He has received severe injuries in this accident and remained admitted in hospitals for a considerable period. So, the appellant-claimant shall be entitled to ₹40,000/- in lump sum under these heads instead of ₹20,000/- as

awarded by the learned Tribunal. Thus, there is increase of ₹35,000/- in the total amount of compensation and the total amount of compensation payable to the appellant-claimant comes to ₹2,03,366/-.

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellant-claimant is enhanced to ₹2,03,366/- from ₹1,68,366/- as assessed by the Tribunal in its report dated 18.10.2014. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 60 days from today, failing which the appellant-claimant shall be entitled to interest @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal.

16.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No