

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

FAO No.2119 of 2015

Date of decision : 07.12.2016

Sunil Kumar

.....Appellant

Versus

Rakesh Sharma and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Chirag Wadhwa, Advocate for appellant.

Ms. Vandana Malhotra, Advocate with
Ms. Monika Jangra, Advocate for respondent No.3-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by by the appellant-claimant against the award dated 02.01.2015, passed by learned Motor Accidents Claims Tribunal, Karnal (hereinafter called the “Tribunal”) in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), vide which the appellant-claimant has been awarded compensation to the tune of ₹46,760/- on account of the injuries suffered by him in the motor vehicular accident, which took place on 26.08.2012.

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

3. I have heard learned counsel for the parties and have gone through the record of the case carefully.

4. Initiating the arguments, learned counsel for the appellant-claimant contended that only ₹5000/- have been awarded to the appellant-claimant towards loss of income, which is highly inadequate. He has also not been granted sufficient amount for special diet, transportation and pain & suffering *etc.* Thus, he contended that just amount of compensation has not been awarded by the learned Tribunal.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has assessed adequate and just compensation under all the heads. He further contended that the claimant has not suffered any disability. There was no proof regarding income of the claimant. So, there can be no loss of income.

6. I have duly considered the aforesaid contentions.

7. It is an admitted fact that the appellant-claimant has not suffered any disability on account of the injuries suffered in this accident. The learned Tribunal has awarded ₹21,760/- on account of treatment and medical expenses on the basis of the evidence adduced by the claimant, which is just and appropriate. The learned Tribunal has also awarded ₹20,000/- on account of pain & sufferings, special diet and transportation. Even if the compensation should have been awarded separately for all these heads, but the total amount would not have been more than ₹20,000/-. So, the amount of ₹20,000/- awarded by the learned Tribunal in lump sum for pain & sufferings, special diet and transportation *etc.* is also quite reasonable.

8. The learned Tribunal has awarded only ₹5000/- on account of loss of income, but the same seems to be inadequate as the claimant has suffered fracture of right femur and also underwent operation, so he must had not been able to resume his duties at least for a period of three months. If the income of the claimant is taken to be ₹4500/- per month, he has suffered the loss of income to the tune of ₹13,500/-. So, the amount of compensation on account of the loss of income is enhanced from ₹5000/- to ₹13,500/-. In this way the total amount of compensation comes to ₹55,260/-

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to ₹55,260/- from ₹46,760/- as awarded by the Tribunal. The appellant-claimant shall also be entitled to interest on the enhanced amount of compensation at the rate as awarded by the learned Tribunal 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 in the main award.

07.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No