

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

**FAO No.2472 of 2016 (O&M)
Date of decision: May 26, 2016**

Akash Kaggra and another	Appellants
Versus	
Hari Chand and another	Respondents

CORAM: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. S.S.Behl, Advocate for the appellants.

HARINDER SINGH SIDHU, J.

Akash Kaggra and Ram Nath, driver and owner of motorcycle No.HR-01AF-6521 have filed the present appeal against the award dated 06.02.2016 passed by Motor Accident Claims Tribunal, Ambala (for short, the Tribunal), whereby compensation of Rs.2,00,000/- was awarded to respondent – claimant Hari Chand for the injuries suffered by him in a vehicular accident on 30.04.2014 caused by the aforesaid motorcycle.

Brief facts of the case are that on 30.04.2014 Hari Chand was going towards his house at Railway Colony, Ambala Cantt. on his bicycle and at about 6 p.m when he reached near Naach Ghar, the offending motorcycle being driven rashly and negligently by Akash Kaggra – appellant No.1 and at a high speed came from behind and hit him. He sustained injuries and was taken to Railway Hospital, Ambala Cantt, from where he was referred to PGI Chandigarh but was got admitted in Narain Hospital, Ambala City. Matter was also reported to the police.

On filing a claim petition by the injured-claimant, the Tribunal

awarded compensation as under :

For 40% disability	Rs.40,000/-
For medical bills	Rs.1,00,000/-
For Pain and Sufferings, diet and nutrition, attendant charges, transportation etc.	Rs.30,000/-

Besides, he was also awarded Rs.30,000/- for loss of allowances during his absence from duty.

Challenging the impugned award, it is contended that the involvement of the vehicle was not proved and that the Tribunal has awarded compensation on higher side as claimant has suffered no functional disability.

Though, the statement of the claimant injured was recorded on 3.5.2014 i.e. after a delay of 3 days of the accident, which occurred on 30.4.2014, but in the statement, the injured claimant gave the number of the offending motorcycle as also the name of its driver. The version of the claimant was investigated by the police and the appellant-Akash Kaggra was charge-sheeted for causing the accident by his rash and negligent driving. This was supported by the oral testimony of injured, who appeared before the Tribunal as PW5. Based on this evidence, the Tribunal has recording the finding regarding the involvement of the offending motorcycle in the accident, which does not call for any interference.

It has also come on record that the injured claimant was working as waiter in railway department. PW3 Dr.Sachin Jindal, Consultant, Neuro Surgeon, Narain Hospital, Ambala City stated that his CT scan showed fracture right Temporo – Parietal Bone with hemorrhagic contusions and SAH. The injured was managed conservatory and was discharged on

4.5.2014. PW1 is Dr.Manisha Aggarwal, Senior Medical Officer, General Hospital, Ambala City, who was member of Medical Board which assessed the disability of the claimant – injured. She stated that apart from her, Civil Surgeon, Ambala and Principal Medical Officer, General Hospital, Ambala were also the members of the Board, which assessed the disability of the claimant as 40% hearing unpainment both ears, based on ASBR/Bera report done at PGI, Chandigarh. She also stated that the hearing loss is permanent in nature. She specifically denied the suggestion that the hearing disability of 40% is curable with passage of time.

Ram Shanker from the office of Superintendent, Northern Railway, Ambala Cantt appeared as PW2 and stated that the claimant remained absent from 30.4.2014 to 3.2.2015 due to the accident and he suffered loss to the tune of Rs.2,64,186/- for remaining absent from duty. He also stated that the claimant did not receive any benefit or allowance, and only basic salary and DA was paid to him. He proved the document Exhibit P-2, P-3, P-4, P-5 and P-6 proving the aforesaid official facts.

Considering the injuries/permanent disability suffered by the claimant, financial loss of allowances during his absence attributable to the accidental injuries, physical pain and mental agony undergone by him, etc, there is no ground to reduce the compensation of Rs.2,00,000/-, which rather appears to be on the lower side.

No other point was raised.

Appeal dismissed.

May 26, 2016

(HARINDER SINGH SIDHU)
JUDGE