

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

**FAO No.8065 of 2015
Date of decision : 01.02.2016**

Virender

.....Appellant

Versus

Kamaljeet and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. Hitesh Chauhan, Advocate for
Mr. Keshav Partap Singh, Advocate for appellant.

DARSHAN SINGH, J.

The present appeal has been preferred by appellant-claimant Virender against the award dated 22.07.2015, passed by learned Motor Accidents Claims Tribunal, Sonipat (hereinafter called the 'Tribunal').

2. Appellant-claimant Virender has filed the petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter called the 'Act') for grant of compensation to the tune of Rs.20,00,000/- on account of injuries suffered by him in the motor vehicular accident, which took place on 16.07.2013 due to rash and negligent driving of the tractor-trolley

bearing registration No.PB-10DS-9810 by respondent No.1.

3. Respondents No.1 & 2 were proceeded against ex parte. However, the claim petition was contested by respondent No.3 the New India Assurance Company Limited. The learned Tribunal has awarded the compensation to the tune of Rs.1,57,600/- along with interest @ 7.5% per annum from the date of filing the petition till realisation.

4. Dissatisfied with the quantum of compensation, the present appeal has been preferred by the appellant for seeking enhancement of the compensation.

5. I have heard Mr. Hitesh Chauhan, Advocate for Mr. Keshav Partap Singh, Advocate, learned counsel for the appellant and gone through the paper-book carefully.

6. Learned counsel for the appellant contended that the appellant has led the evidence to establish that he has employed PW2 Bahadur as his attendant and used to pay him Rs.300/- per day. He was employed with effect from 22.07.2013 to 01.07.2014. But no amount has been awarded as compensation towards attendant charges. He further contended that the compensation awarded for disability i.e. Rs.30,000/- is also totally inadequate as the claimant has suffered 30% disability.

7. I have duly considered the aforesaid contentions.

8. The appellant-claimant has not led any cogent and convincing evidence to establish that he had to employ PW2 Bahadur as a male attendant. There is only the oral statement of Bahadur, which is not corroborated from any documentary evidence. If, the claimant has employed Bahadur as a male attendant on payment of Rs.300/- per day,

he must be maintaining some account for paying the wages to the said attendant but no such record has been produced. The claimant has not placed on record any receipt regarding payment of wages to said Bahadur. It appears that this plea has only been taken by the claimant to claim higher amount of compensation. Thus, I do not find any legal infirmity in declining the compensation under this head by the learned Tribunal.

9. The claimant has suffered 30% temporary disability on account of fracture of both bones right leg with stiffness and varus right ankle. The claimant has suffered only the temporary disability and not the permanent disability as a result of the injury suffered by him. The learned Tribunal has rightly awarded the compensation of Rs.30,000/- to the claimant on account of loss of amenity and enjoyment on account of temporary disability suffered by him. Thus, the amount of compensation awarded by the learned Tribunal is just and appropriate and appellant is not entitled for any enhancement of compensation.

10. Consequently, the present appeal being without any merits, is hereby dismissed.

01.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**