

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4547 of 2003 (O&M)

Date of decision: 01.05.2017

Sanjeev @ Bablu

... Appellant

Versus

Prabhu Dayal

... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. P.R. Yadav, Advocate for the appellant.

Mr. Ashwani Talwar, Advocate and

Mr. Akash Sharma, Advocate for the respondent.

HARI PAL VERMA, J. (ORAL)

The appellant-claimant Sanjeev @ Bablu has filed the present appeal seeking modification/enhancement of compensation awarded by the Motor Accident Claims Tribunal, Narnaul (in short the 'Tribunal') vide award dated 26.05.2003.

Briefly stated, as per the claim petition, on 08.09.1999 the appellant-claimant was going to Mohindergarh on his scooter bearing registration No.DBI-5236 at a moderate speed on the left side of the road. When he reached near Farma Tractor Agency, a tractor bearing registration No. HR 34/8568 came from the opposite direction at a very fast speed being driven by its driver in a rash and negligent manner. The driver of the tractor could not control the tractor and brought it on the wrong side and hit the scooter of the appellant. As a

result thereof, the appellant fell down and received multiple injuries, including fracture on his right leg. He was taken to civil hospital Mohindergarh by Sunil and Rajesh, where he was medico-legally examined and given first aid. However, considering the nature of injuries, the appellant was referred to Medical College, Rohtak where he remained admitted for number of days. The Tribunal held the driver of the tractor guilty for rash and negligent driving and accordingly awarded compensation of Rs.37,000/- along with interest @ 9% from the date of filing of the claim petition till its realization.

Dissatisfied with the compensation, so awarded by the Tribunal, the appellant-claimant has filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellant has argued that on account of injury, the appellant was confined to bed and could not perform his day to day work. Appellant has suffered 10% permanent disability on account of mal-united fracture right tibia and fibula with mild restricted movement right knee joint. He has referred to disability certificate Ex-P4 and submitted that the appellant was not able to perform his day to day functions and confined to bed for a long time. He has further argued that when the appellant was taken from Civil Hospital Mohindergarh to Medical College Rohtak, this itself is itself sufficient to prove that injury caused to the appellant was serious in nature. He has prayed for enhancement of compensation.

On the other hand, learned counsel for the respondent has

argued that the appellant has been awarded adequate compensation. He has suffered 10% disability which is regarding a restricted movement on his right knee and with the passage of time that must have been improved.

I have heard learned counsel for the parties and have carefully perused the file.

There is no dispute that appellant has suffered injury in the accident and the said injury was permanent in nature. Doctor has given certificate Ex.P4 showing that the appellant was permanently disabled to the extent of 10% on account of mal-united fracture right tibia and fibula with mild restricted movement right knee joint and for such an injury he must have been advised rest as the nature of injury is not as such to permit him to perform his day to day function. Therefore, this Court finds that the award dated 26.05.2003 requires modification.

Accordingly, the award passed by the Tribunal is modified and compensation of Rs.37,000/- awarded by the tribunal is enhanced to Rs.57,000/-.

With the abovesaid modification, the present appeal shall stands disposed of.

(HARI PAL VERMA)
JUDGE

01.05.2017
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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No