

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

**CM No.26104-CII of 2016 in/and
FAO No.5482 of 2013
Date of decision : 03.07.2017**

Anil Kumar

.....Appellant

Versus

Sunder Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Arun Yadav, Advocate for the applicant-appellant.
 None for respondent No.1.
 Mr. Rajbir Singh, Advocate for respondent No.2.

DARSHAN SINGH, J.

CM No.26104-CII-2016

As per the report of the office, Mr. B.K. Bagri, Advocate learned counsel for respondent No.1 was informed through email and letter for today, but he is not present.

This application has been moved by the applicant-appellant under Order 41 Rule 19 for restoration of the appeal bearing FAO No.5482 of 2013, which was dismissed in default vide order dated 13.12.2016.

Heard on the application.

Learned counsel for the respondent No.2-Insurance Company has no objection in restoration of the present appeal.

Thus, in view of the grounds mentioned in the application and no objection from the side of respondent No.2, the present application is

hereby allowed. The main appeal stands restored at its original number.

FAO No.5482 of 2013

The present appeal has been preferred by appellant-claimant Anil Kumar against the award dated 21.09.2013, passed by learned Motor Accidents Claims Tribunal, Rewari (hereinafter called the “Tribunal”), whereby in a claim petition filed by the appellant-claimant under Section 166 of the Motor Vehicles Act, 1988 (for short – the “Act”), he has been awarded compensation to the tune of ₹49,200/- on account of the injuries suffered by him in the motor vehicular accident which took place on 23.11.2011.

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 paper-book carefully.

4. Initiating the arguments, Mr. Arun Yadav, Advocate, learned counsel for the appellant-claimant contended that appellant-claimant has suffered serious injuries in this case. He has lost his teeth. He incurred huge amount on treatment. He also suffered lot of pain and suffering. He has to take the liquid diet but the learned Tribunal has awarded inadequate amount of compensation.

5. On the other hand, Mr. Rajbir Singh, Advocate, learned counsel for the respondent No.2-Insurance Company contended that the appellant-claimant has not suffered any disability. He was a student, so there was no loss of income. The learned Tribunal has assessed the

compensation under all the relevant heads in a proper way. Thus, he pleaded that the compensation awarded by the learned Tribunal is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. The legal position is well established that in a claim petition under Section 166 of the Act, the victim is entitled to receive the just compensation. In this case the appellant-claimant had lost his teeth as a result of impact in the present accident. He also underwent the surgical procedure. From the statement of PW-3 Dr. Madhu Sudan Sharma, it comes out that five teeth were fixed in the denture of the appellant. Three teeth were fixed in upper anterior region and two teeth were affixed in support thereof. The learned Tribunal has awarded a sum of ₹39,200/- towards medical expenses. In view of the nature of the injuries suffered by the appellant-claimant and the treatment underwent by him, the amount payable to the him as medical expenses is enhanced to ₹45,200/-.

8. Due to loss of teeth and surgical procedure the appellant-claimant might have to remain on liquid diet for a considerable long period. He has been awarded only ₹5000/- for better diet. The same is enhanced to ₹7500/-. The appellant-claimant has lost his teeth and also underwent surgical procedure. The amount of ₹5000/- awarded by the learned Tribunal on account of pain and suffering is inadequate and is enhanced to ₹10,000/-. In addition to that, the appellant-claimant shall also be entitled to ₹2000/- towards transportation charges. In this manner, the amount of compensation payable to the appellant-claimant shall be as follows:

Sr. No.	Heads of compensation	Amount of compensation awarded by the Tribunal (<i>in rupees</i>)	Amount of compensation enhanced by this Court (<i>in rupees</i>)
1.	Medical expenses	39,200	45,200
2.	Better diet	5000	7500
3.	Pain and suffering	5000	10,000
4.	Transportation charges	-	2000
Total		49,200	64,700

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellant-claimant is enhanced to ₹64,700/- from ₹49,200/- as awarded by the Tribunal. The appellant-claimant shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation shall remain the same as determined by the learned Tribunal in the main award.

03.07.2017
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No