

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

**CWP No. 1742 of 2014
Date of decision : 09.10.2018**

Sabar Ali

...Petitioner

versus

Union of India and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. G.N. Malik, Advocate
for the petitioner.

Ms. Gurdeep Kaur, Advocate for
Mr. Sandeep Vermani, Advocate
for respondent No. 1 and 2.

RITU BAHRI, J. (Oral)

Petitioner is seeking direction to the respondents to pay him compensation to the tune of Rs.4 lacs, as he suffered major head and face injuries (fractures) in railway accident due to negligence on the part of the respondents.

At the very outset, reference can be made to a judgment of this Court in CWP No. 11338-2008 filed by legal representatives of Kewal Khan (since deceased), for grant of compensation due to the death of their father in railway accident. This Court allowed the writ petition on 28.04.2009 and awarded Rs.4 lacs as compensation to the legal representatives of Kewal Singh and held that the accident had occurred as the gateman at the railway crossing was allegedly under the influence of liquor and did not close the gate.

The above said driver-respondent No. 3 was held negligent in

discharging his duties and was convicted and sentenced to undergo rigorous imprisonment substantially for a period of two years under Sections 304-A/337 IPC and Section 175 of the Railways Act, vide judgment dated 16.07.2004 (Annexure P-2).

In the present case as well, the petitioner also sustained injuries as per deposition of Dr. S.K. Bansal (PW12) who stated that he found to have fracture left zygomatic arch, fracture lateral wall of left orbit and fracture left parietal bone.

So, this Court need not to give its finding on negligence part of the driver and has to only give compensation to the petitioner, as in same accident, Sh. Kewal Khan lost his life and his legal representatives were given compensation to the tune of Rs.4 lacs i.e Rs.1 lac each to four minor children.

Reference at this stage can be made to order dated 25.01.2003 which has been passed by the respondents on the representation given by the petitioner on 12.09.2013. In this order, reference has been made to Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 (for short 'Rules 1990') wherein it has been stated that for the unscheduled injuries, the maximum compensation of Rs.80,000/- has been provided and the power are given to the Railways Claims Tribunal to grant compensation.

It is also not in dispute between the parties that the official respondents has granted the compensation to the legal representatives of Kewal Khan and thus CWP no. 11338-2008 has attained finality. The petitioner in view of Rule 3 of Rules, 1990 can be granted compensation of Rs.80,000/-.

In view of the above factual position, the writ petition stands

allowed and a direction is given to the respondents to pay compensation of Rs.80,000/- along with 9% interest from the date of accident i.e 11.12.1998 to the petitioner on account of injuries suffered by him in the accident.

(RITU BAHRI)
JUDGE

09.10.2018
G Arora