

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

**F.A.O. No.3340 of 2015(O&M)
Date of Decision: 10.10.2018**

Ajit Singh

.....Appellant.

Versus

Udayveer and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Parmod Kumar, Advocate
for the appellant.

Mr. Aditya Yadav, Advocate
for respondent no.2.

Ms. Vandana Malhotra, Advocate
for respondent no.3.

LISA GILL, J.

This appeal has been preferred by the appellant for enhancement of compensation awarded to him vide award dated 12.02.2015 passed by the learned Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by him in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by him in a motor vehicle accident, which took place on 21.11.2011. It has been averred that the claimant along with his son Sandeep were going from village Kukrola to Dadri Toe on a motorcycle bearing

registration no. HR-14-C-5985, which was being driven by the appellant and his son-Sandeep was a pillion rider. At about 07.00 a.m., when they had just covered a distance of 4-5 kms distance from village Kukrola towards Dadri Toe, a truck bearing registration no. HR-38-J-8515, driven by respondent no.1-Udayveer in a rash and negligent manner came from the opposite side and hit his motorcycle. Consequent thereto, he fell on the road and suffered multiple injuries. He was shifted to PGIMS, Rohtak, where he remained admitted from 21.11.2011 to 23.11.2011. Thereafter, the appellant received treatment from ESIC Hospital, Gurgaon and remained admitted there w.e.f. 23.11.2011 to 19.12.2011. FIR No. 703 dated 21.11.2011 (Ex.P-1), under Sections 279, 337 IPC was registered at Police Station Jhajjar in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Udayveer. The said finding of the learned tribunal has attained finality.

Learned Tribunal concluded that the appellant sustained injuries in this accident leading to 30% permanent disability and ₹30,000/- was awarded in this respect. A sum of ₹25,000/- was awarded on account of pain and suffering. A sum of ₹9000/- was awarded on account of loss of income during the treatment period w.e.f. 23.11.2011 to 19.12.2011. A sum of ₹4,68,000/- was awarded on account of loss of future income. A sum of ₹18,000/- was awarded on account of transportation, nourishing food, attendant etc. A total amount of ₹5,50,000/- was awarded by the learned Tribunal as compensation. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant submits that the appellant was admittedly working as a security guard and could not carry on with his vocation after receiving the injuries. It is thus prayed that compensation awarded to be appellant be enhanced.

Learned counsel for respondent No.3 – Insurance Company however submits that the compensation awarded by the learned Tribunal is reasonable and as per the evidence on record.

I have heard learned counsel for the parties and have gone through the file.

It is not in dispute that the claimant-appellant received injuries in the accident which took place on 21.11.2011. PW-3-Dr.S.S.Chauhan, has proved the disability certificate (Ex.P-4). It is proved on record that the appellant sustained injuries on the right hip, right knee, right forearm with fracture neck of femur right with fracture patella right with fracture of right radius. He was operated upon for a total THR (Total Hip Replacement) and fracture of the patella which was operated with tension band wiring and K-wiring with stiff knee. PW-3 further proved that there was a fracture of the right radius which was operated upon with plating as well as the fracture of the wrist joint. PW-3 has specifically stated that the appellant is able to do his routine chores with difficulty.

It is not in dispute that the appellant was earning ₹9000/- per month at the time of the accident while working as a security guard with a private security agency hired by Reliance SEZ at village Dadri Toe. PW-4-Nanak Chand, supervisor of Excel Security Services Limited has duly proved the same.

Keeping in view the facts and circumstances of the case, functional disability of the appellant cannot be less then 60% and is so assessed. The claimant was 48 years old at the time of the accident. Increase in income on account of future prospects at the rate of 25% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**. Multiplier of 13 has been rightly applied by the learned tribunal. ₹9000/- on account of loss of income for the treatment period as already awarded by the learned tribunal is maintained.

Keeping in view the parameters referred to hereinbefore and in view of the decision of the Hon'ble Supreme Court in **Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765**, compensation towards the claimant on account of injuries received by him is re-worked as under:-

1.	Loss of income	₹9000/- p.m
2.	Total income after addition of future prospects at the rate of 25%	₹9000/- (₹9000 + ₹2250) i.e. ₹11250/-
3.	Loss of income on account of 60% disability	₹11250/- x 12 x 13 x 60%= ₹10,53,000/-
4.	Loss of pain and suffering	₹50,000/-
5.	Loss of amenities	₹50,000/-
6.	Transportation charges	₹10,000/-
6.	Loss of income during treatment period w.e.f 23.11.2011 to 19.12.2011	₹9000/-
7.	Special diet	₹10,000/-
	Total Compensation =	₹11,82,000/-

Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization.

Needless to say the amount, if any, already disbursed to the claimant shall be deducted.

Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimant, shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

10.10.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.