

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

**FAO No.16240 of 2018 (O&M)
Date of decision:20.12.2019**

Arun Kumar

....Appellant

Versus

Sukhdev Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. N.S. Panwar, Advocate,
for the appellant.

Mr. Mannu Rattan Bhardwaj, Advocate,
for respondent No.2.

Mr. Satish Jain, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.28881-CII of 2018

The application is for placing on record disability certificate dated 19.03.2018 (Annexure A-1) by way of additional evidence.

A perusal of the above certificate shows that claimant Arun has suffered temporary disability to the extent of 67%. This certificate has been issued by the Medical Board, Civil Hospital, Sonipat.

No reply to this application has been filed by the Insurance Company-respondent No.3.

In view of the above, the present application is allowed and disability certificate dated 19.03.2018 (Annexure A-1) is taken on record.

FAO No.16240 of 2018 (O&M)

This appeal has been filed by the claimant-appellant seeking

Sonipat (hereinafter referred to as 'the Tribunal') vide award dated 27.04.2017 on account of injuries received by him in a motor vehicular accident which took place on 23.04.2016.

Brief facts of the case are that on 23.04.2016, claimant-appellant (Arun Kumar) along with Deepak and Sunil was coming from Delhi to Gohana in a car bearing No. HR-11-E-6753. The said car was being driven by claimant-appellant himself. When they reached near village Kheri Damkan, a truck bearing registration No. PB-31-D-4449 being driven by Sukhdev Singh-respondent No.1 in a rash and negligent manner, came from the side of Gohana and struck against the car of claimant, as a result of which, claimant-appellant (Arun Kumar), Deepak and Sunil received grievous injuries. They were shifted to the Civil Hospital, from where, Arun-claimant was referred to PGI, Rohtak, where he remained admitted from 23.04.2016 to 07.05.2016. With regard to the accident, FIR No.135 dated 24.04.2016 was recorded against respondent No.1 at Police Station, Gohana. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver-respondent No.1 and and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Arun Kumar-claimant/appellant (PW-2) and Deepak (PW-4), who was eye witness of the accident. Apart from this, claimant has also proved on record medical bills Ex.P1 to Ex.P6 & Ex.P11, photographs Ex.P7 to Ex.P10, charge sheet Ex.P13, challan Ex.P14, FIR Ex.P15 and site plan Ex.P16. Ultimately, the

claim petition was accepted by the Tribunal and compensation was assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1.	Medical bills	Rs.5448/-
2.	Hospitalization, including attendant expenses/loss of income	Rs.20,000/-
3.	Pain and sufferings	Rs.10,000/-
4	Transportation, diet etc.	Rs.10,000/-
	Total	Rs.45,448/-

Hence, the claimant was found entitled to a total compensation of Rs.45,448/-, rounded off Rs.45,500/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 to the effect that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver-respondent No.1.

A perusal of certificate dated 19.03.2018 (Annexure A-1) shows that claimant-appellant Arun has suffered temporary disability to the extent of 67%. His condition was likely to improve and reassessment was sought after 60 months. At this stage, reference can be made to a judgment passed by Co-ordinate Bench of this Court in **Shri Ram General Insurance Company Limited vs. Ami Lal and others**, 2015 (2) PLR 239. In that case, the Insurance Company had filed an appeal against the award passed by the Tribunal, whereby compensation of Rs.1,00,000/- had been awarded with

This court had allowed the appeal. Keeping in view that the disability was 21%, which was temporary in nature, compensation on account of disability was awarded as Rs.42,000/- (i.e. Rs.2000/- against 1% of disability).

In the facts of the present case, as per disability certificate dated 19.03.2018 (Annexure A-1), claimant-appellant has suffered disability to the extent of 67%, which is temporary in nature. By applying the ratio of aforesaid judgment i.e. **Ami Lal's** case (supra), compensation on account of temporary disability is being assessed as Rs.1,34,000/- (Rs.2000 x 67). Hence, keeping in view the peculiar circumstances, in which the injured-claimant had been put, the compensation is hereby re-assessed as under:-

Sr. No.	Heads	Amount (Rs.)
1	Medical bills	Rs.5448/-
2	Hospitalization, including attendant expenses etc.	Rs.30,000/-
3	Pain and sufferings	Rs.20,000/-
4	Transportation, diet etc.	Rs.20,000/-
5	Compensation on account of 67% temporary disability	Rs.1,34,000/-
6	TOTAL COMPENSATION AWARDED	Rs.2,09,448/-
	Enhanced amount of compensation	Rs.2,09,448 – 45,500 = Rs.1,63,948/-

The enhanced amount of compensation of **Rs.1,63,948/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization in view of the judgment of Hon'ble the Supreme Court in the case of “**Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and others**, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019) (decided on 01.05.2019). Remaining conditions of disbursal of

amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

20.12.2019
ajp

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