

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6142-2014 (O&M)
Date of decision: 13.04.2023

RAM SINGH

...Appellant

VS

SAWAI SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Dheeraj Narula, Advocate,
For the appellant.

None for the respondent despite service.

ARUN MONGA, J. (ORAL)

Aggrieved with award dated 06.05.2014 rendered by learned Motor Accidents Claims Tribunal, Sirsa (for brevity, 'Tribunal'), appellant/claimant is before this Court by way of an appeal seeking enhancement of compensation.

2. Succinct facts, as noted by learned Tribunal, are as below:

"In brief, the facts of the claim petition are that on 11.01.2010 claimant Ram Singh along with one Madan Lal was returning to his house from the market on his motorcycle bearing No. HR-24H-7648 and around 6.00 pm when they reached near Ratti Ram Petrol Pump, Begu Road, Sirsa, in the meantime an Esteem Car bearing No.DL-2CF-9731, being driven by Sawai Singh respondent in a rash and negligent manner, came from opposite side and struck against the motorcycle of the claimant due to which the claimant sustained serious and multiple injuries. Thereafter, the claimant was brought to the hospital of Dr. Y.K.Chaudhary, Sirsa where he remained for a period of about one week and was operated upon and is still undergoing treatment. The matter was reported to the police on the basis of which FIR No. 34 dated 13.01.2010 under Sections 279, 337, 338 and 427 IPC, Police Station, City Sirsa, was registered against the respondent."

3. Upon notice, respondent being driver as well as owner of Esteem car in question filed written statement taking preliminary objections regarding maintainability, cause of action, locus standi, concealment of true and material

facts. The averments of the claim petition about rash and negligent driving by the respondent were also denied.

4. Learned Tribunal framed the following issues:

1. *Whether the accident in question resulting into injuries to petitioner Ram Singh, had taken place on 11.01.2010 in the area of near Ratti Ram Petrol Pump, Begu Road, Sirsa on account of rash and negligent driving of Esteem Car No. DL-2CF-9731 by respondent No.1. If so to what effect? OPP*
2. *If issue No.1 is proved in affirmative, to what amount of compensation, the petitioner is entitled to and from whom? OPP*
3. *Whether the petition deserves dismissal on the grounds mentioned in the written statement? OPR*
4. *Relief."*

5. On appraisal of record/ evidence, learned Tribunal decided issue No.1 in favour of claimant. Issue No.2 was disposed of and respondent was held liable to pay the compensation amount. Issue No.3 was decided against respondent and in favour of claimant. Consequently, the claim petition was partly accepted with costs and award for a sum of Rs.78,948/- as total compensation was passed in favour of claimant together with interest @ 7.5 % per annum from the date of filing the petition till realization of the entire awarded amount to be paid by respondent.

6. It has been contended by learned counsel for appellant/claimant that inadequate amount has been awarded and the amount needs to be enhanced.

7. None has put in appearance on behalf of the respondent, despite service.

8. I have heard learned counsel for the petitioner and perused the record.

9. Appeal was filed in the year 2014 seeking enhancement of the compensation *qua* the injuries suffered by appellant in the accident in question.

No stay was granted by this Court. It transpires that on one hand, appellant has

not taken any effective steps to recover compensation, as already awarded by learned Tribunal, by pursuing his execution proceedings.

10. On a Court query, no satisfactory response has come forth as to why execution proceedings were not pursued by claimant to their logical conclusion, on the other hand, this appeal for enhancement has been filed.

11. Be that as it may, the impugned award is premised on the following reasoning:

“18. As per Ex. PW4, the disability certificate of Ram Singh Claimant proved by Dr. Pawan Kumar PW4, former was assessed to have suffered disability on account of pain and stiffness of right knee to the extent of 10% due to fracture of femur. Pertinent to mention that this witness never adjudged this disability either permanent or temporary but from his testimony made in cross-examination it is quite apparent that the suffered disability by the claimant may reduce to some extent with passage of time as well as with the help of physiotherapy. Hence, the assessed physical disability of 10% suffered by claimant is considered as temporary, therefore, claimant is awarded compensation on this count to a sum of Rs.10,000/-.

19. Claimant has further examined Dr. R.K.Jain as PW1 who has proved bed head ticket Ex.P1 and medical bills Ex. P2 to Ex. P8. Dr. Y.K.Chaudhary, while appearing as PW2 has proved ruqa Ex.P9 medical bills Ex. P10 to Ex.P19 and receipts Mark-A to Mark-E. The total of the medical bills comes to Rs.46,948/-.

20. However, the claimant submitted that at the time of accident he was working as property dealer as well as doing agricultural work by cultivating his 10 acres of land, thereby, earning Rs.20,000/- permonth and during the period of his medical treatment he could not attend to his work and the injuries sustained by him have led him permanently disabled and now he is unable to do any work and has lost his earning. But no evidence has been led on record to substantiate the said income of injured Ram Singh. However, keeping in view the fact that since claimant was operated upon for right knee and remained admitted in different hospitals for about ten days, therefore, keeping in view the facts and circumstances of the case claimant is awarded a sum of Rs.10,000/- on account of lossof earnings during the convalescing period.

21. Besides, a sum of Rs.10,000/- towards pain and sufferings and a sum of Rs.2000/- towards special diet etc. is also found payable to the claimant.

1.	Disability at 10%	Rs.10,000/-
2.	Medical Bills	Rs. 46,948/-
3.	Loss of earning	Rs.10,000/-
4.	Pain and sufferings	Rs.10,000/-
5.	Special diet	Rs.2000/-
	Total	Rs. 78,948/-

22. *Hence, the total amount of compensation to which claimant is held entitled comes to Rs.78,948/- and respondent Sawai Singh is held liable to pay the compensation amount and thus this issue stands disposed of accordingly.”*

12. Having perused the record, I see that no grounds are made out to interfere in the above said reasoning and am also of the opinion that the appellant has already been adequately compensated for the injuries suffered by him. The entire amount of medical bills, as exhibited, without any deduction was found to be admissible and awarded. That apart, appellant has also been awarded compensation *qua* pain and suffering as well as special diet. There is no further scope for any enhancement.

12.1. As regards argument of learned counsel for the appellant that appellant had suffered 10% disability, in the absence of any proof of the same being permanent in nature, learned Tribunal has rightly awarded Rs.10,000/- *qua* the same as the said injury was temporary causing disability if any, for only short period.

13. Dismissed with liberty to appellant to proceed against sole respondent to recover the amount already awarded by learned Tribunal by filing execution proceedings, if not already instituted.

(ARUN MONGA)
JUDGE

13.04.2023
vandana

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