IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 735/2015

Date of decision:16/02/2023

Nathu Ram

………………Appellant

Vs.

Gordhan Dass and another

…………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Dheeraj Narula, Advocate for the appellant/claimant.

Mr. Satbir Gill,Advocate for respondent no.1/ driver & owner of the offending motorcycle.

Mr. Sukhdarshan Singh, Advocate for respondent no.2/ Insurance Company.

Nidhi Gupta, J.

Present appeal has been filed by the claimant-Nathu Ram seeking enhancement of compensation of Rs. 1,45,089/- granted vide Award dated 27.11.2014 passed by the learned Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') passed in Claim Petition No.64/2012 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Brief facts of the case are that the learned Tribunal on appraisal of pleadings and evidence before it concluded that the claimant Nathu Ram was injured in an accident that took place on 30.7.2012 due to rash and negligent driving of the motorcycle bearing registration No. HR-24J-1171 (hereinafter referred to as 'the offending vehicle') by the respondent no.1 herein.

It is submitted by the learned counsel for the appellant that the compensation is liable to be enhanced inter-alia, on the ground that the appellant had suffered serious fracture of the skull and had remained admitted in three different hospitals from the date of accident i.e. 30.7.2012 upto 5.9.2012. It is submitted that the appellant had produced medical bills worth Rs.1,25,089/- which though have been duly reimbursed by the learned Tribunal, however, very meagre amount has been granted under the other heads. It is submitted that though the appellant had to move from one hospital to another for treatment however, only Rs.2500/- has been granted for transportation and special diet; and further Rs.7500/- has been granted for pain and sufferings; and only a sum of Rs.10,000/- has been awarded for loss of wages for the period from 30.7.2012 to 5.9.2012. It is submitted that accordingly, the compensation granted by the Tribunal is very meagre.

It is further submitted that even of the awarded amount, only 50% thereof has been released to the appellant by the Insurance Company. It is submitted that even if the liability of the Insurance Company is 50%, the appellant has right to receive the entire amount. In support, learned counsel relies upon judgments of Hon'ble Supreme Court in **Kusum Lata and others v Satbir and others, 2011 ACJ 926** and **National Insurance Co. Ltd. V Laxmi Narain Dhut, 2007 ACJ 721** to submit that in case where there is dispute regarding licence of driver of the offending vehicle, the Insurance Company is liable to pay the compensation amount to the claimant(s) and then recover the same from the owner of the vehicle.

In response learned counsel for the respondent Insurance Company submits that only 50% of the liability was fastened upon the Insurance Company and in accordance with the directions of the Tribunal 50% of the compensation amount has been duly released to the appellant.

No other argument has been raised on behalf of the respondent Insurance Company.

Heard ld. Counsel for the parties.

Perusal of the record shows that as per evidence led by Dr. Munish Singla, PW3, the appellant had suffered fracture of teporo parietal bone of skull in the accident in question. This fact is also borne out from the Bed Head Ticket Ex.P1, and Radiology report Ex. PW3/A. As per evidence led by Sajjan Verma, PW4, medical bills Ex. PA/1 to PA/152 for Rs.1,25,089/- stood proved which were incurred by the appellant for his long stay in the hospital and other medical expenses. No doubt, no evidence has been produced to show that the appellant had suffered any permanent disability, however, it is not disputed that the appellant has suffered fracture of skull which cannot be taken lightly. It is also undisputed that appellant had remained admitted for over one month in three different hospitals, which is also not a small matter.

In this view of the matter, I deem it appropriate to enhance the compensation in the following manner:-

S. No.	Head	Awarded by the Tribunal	Enhanced compensation including the already awarded amount by Tribunal
1	Pain and suffering	Rs.7500	Rs.40,000/-
2	Medical expenses	Rs.1,25,089	Rs.1,25,089/-
3	Transportation/ diet	Rs.2,500	Rs.20,000/-
4	Loss of wages during the period from 30.7.2012 to 5.9.2012	Rs.10,000	Rs.10,000/-
5	Attendant charges	Nil	Rs.40,000/-
	Total compensation	Rs.1,45,089	Rs.2,35,089/-
	Interest	8%	8%

The accident took place in the year 2012, yet the appellant has received hardly any compensation. Accordingly, the respondent Insurance Company is directed to make full and final payment along with interest @ 8% per annum on the enhanced compensation, from the date of filing claim petition till date of realization, within a period of 6 weeks from the date of receipt of a copy of this order.

However, in view of the dismissal of connected appeal bearing FAO NO. 1736/2015 filed by the driver and owner of the offending vehicle, by separate order of even date, recovery rights granted to the Insurance Company against respondent no.1 herein, are maintained.

Disposed of as above,

Pending applications if any stand disposed of.

16/02/2023 **(Nidhi Gupta)**
Joshi **Judge**