

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

FAO-3431-2005 (O&M)
Decided on:09.12.2024

Satyadev Sharma

... Appellant(s)

Versus

Rajender and others

... Respondent(s)

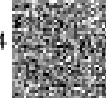
CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ravi Kumar Girdhwal, Advocate for
Mr. Sanjay Mittal, Advocate, for the appellant(s).

Mr. R.C. Kapoor, Advocate,
for respondent No.3-New India Assurance Company Ltd.

SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the injured Satyadev Sharma for the purpose of seeking enhancement of the compensation, over and above the amount which has already been awarded by the learned Motor Accident Claims Tribunal, Narnaul.
2. Briefly stated facts of the case are that on 10.07.2001, the appellant (hereinafter referred as 'claimant') was going from Nangal Chaudhary to Narnaul on his motorcycle bearing registration No.HR-29-F/0793 and on reaching near Neem Hotel situated on Nizampur Road Narnaul met with an accident on account of rash and negligent driving of the driver of the private bus bearing registration No.RJ-14-B/6589. Resultantly, FIR No.150 dated 10.01.2001, under Sections 279/337 of the Indian Penal Code (IPC) was registered at Police Station City Narnaul and

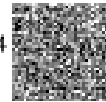


subsequently against the driver of the bus final report under Section 173 Cr.P.C. (Ex.P9) was also filed. While deciding the claim petition, learned Tribunal found that as per the permanent disability certificate, claimant has suffered 10% disability and on that ground, the amount of Rs.20,000/- was assessed for the purpose of compensation. On account of medical bills, Rs.3939/- were paid to the claimant, and further for the purpose of pain, suffering, hospitalization, treatment etc., amount of Rs.15,000/- was awarded and in this way total awarded amount is Rs.38,939/-.

3. While addressing arguments, learned counsel for the appellant submits that nominal amount has been assessed on account of pain and suffering, whereas it should be atleast Rs.50,000/-. He also presses upon to enhance the compensation amount on account of permanent disability, by submitting that because of the said disability, the claimant would not be able to participate in the competition, where the physical fitness is required. And also because of the said disability, there is loss in the enjoyment of future life. Therefore, the compensation amount requires to be enhanced.

4. On the other hand, Mr. R. C. Kapoor, learned counsel appearing on behalf of respondent No.3-New India Assurance Company Limited submits that the adequate compensation amount has been assessed by the learned Tribunal and there is no requirement for any enhancement. He also points out that compassionate view has already been taken by the learned Tribunal and while considering the unproved medical bills i.e. Mark-A to Mark-O amounting to Rs.3939/- which petitioner, has placed on record.

5. After hearing counsel from both the sides, this Court finds that undoubtedly, because of 10% disability of the leg, there are certain stages in



the life for which, the claimant might have suffered with the sense of disability and could not have participated in the competitions or other functions where the physical ability is of prime requirement.

Not only this, the charm and enjoyment of the life is also diminishes because of the physical unfitness. Therefore, such aspect could be considered for the purpose of assessing the compensation amount.

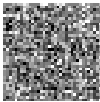
This Court has also seen that on account of pain, suffering, hospitalization and treatment etc., only Rs.15,000/- has been awarded by the learned Tribunal whereas, adequate compensation amount is required to be given on higher side.

6. Considering all these aspects, this Court is of the view that for the injury suffered on account of the accident on 10.07.2001, the claimant should be paid total lump sum compensation amount of Rs.80,000/- towards the complete claim of the claimant, as claimed in the claim petition.

7. The awarded compensation shall be paid to the appellant/claimant within a period of three months from the date of this order, along with interest @ 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the appellant/claimant, with the same terms, which have been mentioned by learned Tribunal.

It is further clarified that in case compensation amount is not paid within above mentioned stipulated period, rate of interest would be 9% per annum from the date of filing of claim petition till its actual realization.

And, in case any further delay is caused beyond six months from today, compensation amount would be payable alongwith interest at



rate of 12% per annum from the date of filing of claim petition till its actual realization.

8. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award would be adjusted.

9. All other terms and conditions and observations already made by learned Tribunal would remain intact.

10. Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

Misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

December 09, 2024
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No