

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

FAO-1608-2016 (O&M)
(MACT case No.33 of 2014)
Date of decision: 21.3.2016

New India Assurance Company Limited

...Appellant

Versus

Sushil Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Aseem Aggarwal, Advocate for the appellant

SNEH PRASHAR, J.

CM-5966-CII-2016

The instant application under Section 5 of the Limitation Act has been filed for condonation of delay of 49 days in filing the appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 49 days in filing the appeal is hereby condoned subject to all just exceptions.

FAO-1608-2016 (O&M)

The appellant -Insurance Company has challenged the award dated 22.9.2015 passed by learned Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') in MACT case No.33 of 2014, vide which a sum of Rs.47,733/- was allowed as compensation to claimant-respondent No.1 on account of the injuries suffered by him, in a

motor vehicular accident.

The submissions made by Mr.Aseem Aggarwal, Advocate for the appellant- Insurance Company have been heard.

Learned counsel for the appellant- Insurance company submitted that learned Tribunal without giving any reasoning held the driver of the Bus rash and negligent and fastened the liability of payment of compensation on the insurer of the Bus. The compensation awarded is also on the higher side.

Issue No.1 framed by the Tribunal was as under:-

“Whether the accident in question took place on 18.9.2013 in the area of P.S.Civil Lines, Karnal on account of rash and negligent driving of vehicle bearing no.HR-37C-8457 being driven in rash and negligent manner by respondent No.1 resulting into death of Sanjay, Sonu, Sandeep and injuries to Sushil Kumar?OPP”

Deliberating on the said issue, learned Tribunal observed as under:

“From the perusal of the evidence, it is clear that claimant Sushil Kumar injured has been examined to prove the mode and manner of the accident. So there is no reason to disbelieve the un-rebutted testimony qua the same. The driver of the offending bus in question has not stepped into the witness box to rebut testimony of PW3 Sushil Kumar claimant/ injured.”

The driver of the offending bus was also facing criminal trial under Sections 279, 337 & 304A of the Indian Penal Code. The

stand of the injured-claimant was fully corroborated by the investigation carried out by the police as per the final report submitted under Section 173 of the Code of Criminal Procedure. Thus, learned Tribunal has rightly held the driver of the bus rash and negligent.

In the accident, claimant-respondent No.1 suffered multiple injuries on all over the body including fracture of ribs. Initially he was admitted in Civil Hospital, Karnal and thereafter he was shifted to Virk Hospital, Karnal and then to PGI, Chandigarh. Perusal of the award shows that he placed on record copy of discharge and follow up treatment card Ex.P22, medical bills Ex.P23 to Ex.P39 amounting to Rs.7733/-, which were allowed to him. He was a young man aged 24 years at the time of accident. The learned Tribunal considering all aspects of the matter i.e. special diet, transportation, attendant charges, pain and suffering awarded Rs.10,000/- under each head, which is certainly not on the higher side.

In the above premise, the present appeal being devoid of merit is dismissed.

21.3.2016
gsv

(SNEH PRASHAR)
JUDGE