

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

FAO No. 177 of 2016 (O&M)

Decided on: 01.06.2016

Ankit Kumar

...Appellant(s)

Versus

Vikesh Kumar and another

... Respondent(s)

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. M.P.S. Chandel, Advocate,
for the appellant(s).

Mr. Puneet Jain, Advocate,
for respondent No.2.

JITENDRA CHAUHAN.J.

CM-368-CII-2016

This is an application for condonation of delay of 10 days in filing the appeal.

For the reasons mentioned in the application which is duly accompanied by an affidavit, the delay of 10 days in filing the appeal is condoned and the application is allowed.

Main case

This appeal has been filed by the claimant-injured against the award dated 16.07.2015, passed by Motor Accidents Claims Tribunal, Narnaul (for short 'the Tribunal') vide which compensation of ₹54,000/- was awarded to the appellant-injured on account of the

injuries sustained in a motor vehicular accident.

It is contended by the learned counsel for the appellant that the victim is a school going student, aged 14 years. The factum of accident as well as permanent disability to the extent of 5% are not in dispute. It is further contended that Hon'ble the Supreme Court in **“Master Mallikarjun Vs. Divisional Manager, The National Insurance Company Limited and another 2013(4) R.C.R. (Civil) 295”** has held in paragraph No. 12 as under :-

“12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc. should be, if the disability is above 10% and upto 30% to the whole body, 3 Lakhs; upto 60%, 4 lakhs, upto to 90%, 5 lakh and above 90%, it should be 6 lakh. For permanent disability upto 10%, it should be Rs. 1 lakh, unless there are exceptional circumstances to take different yardstick. In the instant case, the disability is to the tune of 18%. Appellant had a longer period of hospitalization for about two months

causing also inconvenience and loss of earning to the parents.

On the other hand, the learned counsel for the respondent has submitted that the appellant-injured has already been awarded just compensation by the Tribunal.

I have heard learned counsel for the parties and have gone through the case file.

In the instant case, the appellant has suffered 5% permanent disability. The age of the appellant-victim is not in dispute. This being the beneficial legislation, the relief allowed by Hon'ble the Supreme Court in **Master Mallikarjun case (supra)** deserves to be allowed in the present case also. The Tribunal awarded a sum of ₹10,000/- towards permanent disability. Accordingly, the same is raised to ₹ one lac under the head of 'permanent disability'. A perusal of the claim petition further reveals that ₹10,000 have been allowed towards pain and sufferings, transportation, special diet and attendant charges. As per the record, the appellant remained hospitalized for 9 days and had to suffer loss of studies for one precious year for which nothing has been allowed. Considering the age of the appellant, period of hospitalization and the nature of injuries suffered, this Court feels that the amount of ₹10,000/- paid towards pain and sufferings, transportation, special diet and attendant charges, is inadequate and accordingly, the same is enhanced to ₹25,000/-. A sum of ₹25,000/- is awarded for loss of one precious year in studies. The disability suffered

is definitely going to effect his carrier adversely rendering him ineligible for certain special opportunities particularly, armed forces and other disciplined forces. Therefore, for loss of future prospects, another sum of ₹50,000/- is awarded to the claimant-injured.

In view of the above, the claimant-appellant is held entitled to the enhanced compensation of ₹1,80,000/- [₹90,000-(towards permanent disability) + ₹15,000/- (towards pain and sufferings, special diet etc.) + ₹25,000/- (towards loss of studies) + ₹50,000 (towards loss of future) as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification, the instant appeal is partly allowed.

01.06.2016
sumit

(JITENDRA CHAUHAN)
JUDGE