

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

FAO-7703-2014 (O&M)

Date of decision: 26.4.2016

Akshay Yadav

...Appellant

Versus

Arvind Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: MrAshok Tyagi, Advocate for the appellant.

SNEH PRASHAR, J.

CM-20556-CII-2014

The present application under Section 5 of the Limitation Act has been filed for condonation of delay of 14 days in filing the appeal.

For the reasons enumerated in the application, the delay is condoned and the application stands disposed of accordingly.

FAO-7703-2014

The claimant – appellant has filed this appeal seeking increase in compensation awarded by learned Motor Accident Claims Tribunal, Gurgaon (for short 'the Tribunal') vide award dated 13.3.2014 passed in MACT case No.113 of 2012, on account of the injuries suffered by him in a road side accident on 6.4.2012.

An Ambulance bearing registration No.HR-69A-5162 (for short 'the Ambulance') driven by respondent No.1 caused the accident

due to its rash and negligent driving.

Not being satisfied with the compensation awarded by learned Tribunal, the appellant preferred the instant appeal.

The submissions made by Mr.Ashok Tyagi, Advocate representing the appellant have been heard.

Learned counsel for the appellant argued that PW4 Dr.Parveen Gupta, Head of Department, Neurology, Artemis Hospital, Gurgaon, deposed that the patient (appellant) was admitted in the hospital on 6.4.2012 with history of road traffic accident. He had suffered head injury. He remained on ventilator from 6.4.2012 to 25.4.2012 and then in ICU upto 30.4.2012. On 24.5.2012 he was discharged from the hospital. PW3 Dr.Amit Srivastava, who subsequently treated the appellant, stated that the follow up NCCT scan head done in Paras Hospital on 8.6.2012 revealed chronic SDH in left frontal region with evidence of acute bleed and mass effect and mid-line shift for which patient was advised for urgent admission and surgical evacuation of subdural hematoma on emergency basis. The appellant was operated on 16.7.2012 by Dr.Amit Srivastava and he was discharged on 19.7.2012.

Learned counsel contended that as proved from the statements of the doctors PW3 and PW4, the appellant suffered head injury, which will effect his memory. He was a brilliant student and due to the accident, he suffered educational loss. The compensation awarded for the pain and suffering undergone by the appellant and expenditure on

special diet, transportation and future treatment etc. is on extremely lower side.

Indeed, it was held by learned Tribunal that the appellant suffered injuries during the road side accident because of the rash and negligent driving of the Ambulance by respondent Arvind Kumar. He remained admitted in Artemis Hospital from 6.4.2012 to 24.5.2012 and thereafter in Paras Hospital, Gurgaon from 15.7.2012 to 19.7.2012. The medical documents proved that he suffered head injury and was operated upon after three and half months because of chronic SDH in left frontal region. He remained hospitalized for about one and half months at the first instance and then for about 4 days when he was operated. The medical bills and other documents proved on file, showing treatment expenses incurred by the appellant amounting to Rs.12,95,974/- were all allowed to him and that calls for no intervention.

No disability certificate was tendered or proved in evidence by the appellant. The doctor, who examined the appellant stated that the head injury suffered by the appellant would cause memory loss in future but he was not sure of his opinion. No evidence worth in its name was led by the appellant to show that he suffered any such disability or had to face any educational loss on that count. Yet learned Tribunal observing on its own that the injury might have adverse effect on the mind of the appellant, awarded a sum of Rs.3,00,000/- for the loss of future prospects and also a sum of Rs.1,20,000/-, on account of pain and suffering, special diet and transportation expenses, which appear to be

just and adequate.

Thus, there being no ground for intervention in the award passed by learned Tribunal, the present appeal being bereft of merit is dismissed.

26.4.2016
gsv

(SNEH PRASHAR)
JUDGE