

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2361 of 2007

Date of Decision: December 12, 2017

Jagmeet Singh

.....Appellant

versus

Jaswant Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: None for the parties

-. -

Sudhir Mittal, J. (Oral)

This appeal is of the year 2007. The record of the case was burnt in the fire which had taken place in the High Court premises on 30.01.2011. Thereafter, the record has been reconstructed. Notice was issued to the respondents and as per office report, the respondents have been served. However, none has put in appearance even though the case has been called twice. I, thus, proceed to decide this appeal in the absence of learned counsel for the parties.

2. On 18.10.2004, the appellant-Jagmeet Singh was riding his bicycle to village Bullana from his village Dukhara. On reaching near Swastika Feeds, Bullana, he was hit from behind by a Tata Sumo No. HR-01L-4948. The accident was witnessed by his father Kaka Singh, Naib Singh and some other persons. He was taken to Civil Hospital, Ambala and then he was referred to Govt. Medical College & Hospital, Sector-32, Chandigarh. He remained admitted there till 6.11.2004 and thereafter received treatment as an outdoor patient. In the accident, the appellant suffered injuries to his brain. A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act;') was filed and the

granted compensation of ₹ 52,000/-. Aggrieved by this award, the present appeal has been filed.

3. The appellant was about 16 years of age on the date of the accident and was a student of Class VIII. Disability certificate Ex. PA, has been produced on record which has been proved by Dr. K.S. Rana, Psychiatrist, General Hospital, Ambala City, as PW-1. According to this certificate, the appellant has suffered 65% permanent mental incapacity/disability. His I.Q. has been reduced to 45 to 50. Dr. Gori Joshi from Govt. Medical College & Hospital, Sector-32, Chandigarh has appeared as PW-2 and has produced the treatment record as Ex. PB. She has stated that the appellant had sustained head injury and was unconscious when he was admitted on 19.10.2004. The accident itself has been proved by Kaka Singh PW-4, who is an eye-witness. According to his statement the appellant can not walk properly and is unable to do other household work. The medical bills Ex. P1 to P62 have also been produced on record which amount to total of ₹ 27,682/-.

4. Since the claim petition is under Section 163-A of the Act, the Second Schedule to the Act is to be referred for determination of compensation. The appellant was a student and, therefore, his annual income has to be assessed as ₹ 15,000/- p.a. A multiplier of '16' has to be applied since the appellant was about 16 years of age on the date of the accident. Thus, the annual loss of income in the case of the appellant according to the Chart given in the Second Schedule would be ₹ 2,85,000/-. Since the permanent disability suffered by him is 65%, the compensation payable would be 65% of ₹ 2,85,000/- which is equal to ₹ 1,85,250/-. The amount of medical expenses of ₹ 27,682/- should be added to the said figure, however, since the present claim is under Section 163-A of the Act, only a sum of ₹ 15,000/- is payable for medical treatment. A further sum of ₹ 5,000/- is payable for pain and suffering. Thus, a total compensation of ₹ 2,32,932/- is payable.

5. The appeal is, accordingly, allowed. The enhanced compensation would be payable alongwith interest @ 7.5 % per annum from the date of claim petition till the date of payment. The Insurance Company–respondent No. 3, is directed to make payment within a period of three months, from the date of receipt of a certified copy of this judgment.

December 12, 2017
reena

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No