

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

FAO-2631-2013 (O&M)
Date of decision: 08.11.2017

Aman Deep @ Yash Wadhwa

.... Appellant

Versus

Rajiv Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Munish Behl, Advocate
for the appellants.

Service of respondents No.1 and 2 already dispensed with.

Mr. Lalit Kumar, Advocate for
Mr. Ashwani K.Talwar, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been filed by Aman Deep @ Yash Wadhwa who suffered injuries in a motor vehicular accident that occurred on 06.12.2011, for enhancement of amount awarded by the Tribunal.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed before the Motor Accidents Claims Tribunal, Faridabad (for short, 'the Tribunal') claiming the compensation for the injuries suffered by Aman Deep @ Yash Wadhwa, aged 16 years at the time of the accident.

He was travelling in three wheeler bearing registration No.HR-38R-5258. The said three wheeler was being driven in a rash and negligent manner and turned turtle near Krishna Colony, Sector 20B, Faridabad. The appellant suffered injuries on his right mandibular condyle with fracture

fragment lying medially. There was partially displaced fracture body of mandible in mid line and serious injuries on facial bone and teeth of partially upper jaw were broken. He sustained injuries on the left thigh, knee, left leg, right thigh, head etc. He was taken to B.K. Hospital, Faridabad, from there he was shifted to Forties Escorts Hospital, Faridabad. FIR No.604 dated 06.12.2011 was registered at Police Station, Sector 7, Faridabad.

The Tribunal awarded a sum of Rs.1,19,856/- along with interest @ 7.5% per annum.

I have heard the learned counsel for the parties and perused the paper-book and record.

Learned counsel for the appellant has argued that the amount awarded by the Tribunal is on the lower side. The appellant was a young boy of 16 years who had suffered injuries. The Tribunal only awarded a sum of Rs.1,19,856/- which include medical bills of Rs.79,856/-. He stated that the injuries suffered by the appellant were very serious in nature and less amount was awarded for special diet, transportation, attendant and for pain and suffering.

On the other hand, learned counsel for the Insurance Company has argued that no doctor was examined before the Tribunal. The injuries were not proved. The medical expenses for which the bills were produced have been reimbursed by the Tribunal. No enhancement is called for.

In the present case, though there is no dispute by the parties with regard to the involvement of the vehicle in the accident. But much is desired to be proved with regard to the injuries suffered by the appellant. The father of the appellant deposed before the Tribunal and gave the details of the injuries

suffered by the appellant. He claimed that there was hospitalisation for ten days and his son was admitted on 06.12.2011. The bill produced ExP7 of Fortis Escorts hospital showed that the appellant was admitted on 06.12.2011 and was discharged on 07.12.2011. No doctor was examined to prove the injuries suffered and to show what treatment the appellant had received.

In view of the facts that the injuries were not proved, the details of treatment that has come on record show there was hospitalisation on for one day. This is an indicator that the injuries suffered by the appellant were not of very serious in nature. The medical expenses have already been reimbursed. Some amount under the heads of special diet, transportation, attendant, pain and suffering has been awarded by the Tribunal.

The compensation is to be awarded under the Act is to compensate the injured and put him back to the original position so far as the money can.

In the present case, it has not been proved on record that the amount awarded by the Tribunal was not just and equitable. In such circumstances, no case is made out for enhancement.

Hence, the appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

08.11.2017

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Note:

1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No