

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

**FAO No.1123 of 2015
Date of decision: 18.07.2017**

Harjeet Kaur

....Appellant

Versus

Jangir Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Goyal, Advocate,
for the appellant.

Mr. S.S. Grewal, Advocate,
for respondent No.1.

Mr. Ankit Aggarwal, Advocate,
for respondent No. 2.

RITU BAHRI J. (Oral)

This appeal has been filed against the Award dated 29.05.2014 passed by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') whereby claim petition filed by claimant-appellant under Section 166 of the Motor Vehicles Act seeking compensation on account of injuries received by her in a motor vehicular accident, has been dismissed.

Brief facts of the case are that on 30.06.2012, claimant-appellant (Harjeet Kaur) along with her mother-Santosh, after submitting application for admission in B.Sc were coming back from Chandigarh to Sangrur in PRTC bus bearing registration No.PB-11-P-7406. The said bus was being driven by Jangir Singh-respondent No.1 in a rash and negligent

manner. When they reached near village Kauli, the bus went out of control of respondent No.1, who turned the same towards left side in the fields and caused the accident, due to which the bus turned turtle. All the passengers of the bus, including claimant, suffered serious injuries. Claimant received multiple injuries on her head, nasal and other grievous injuries on her person. She was taken to Rajindra Hospital, Patiala, where he was provided first aid treatment. Later on, due to critical condition, she was referred to PGI, Chandigarh. However, she got treatment from Rajindra Hospital, Patiala. As a result of the accident four passengers died at the spot. The claimant had spent a lot of money on her treatment. With regard to the accident, FIR No.113 dated 30.06.2012, under Sections 279/337/338/304-A IPC was registered at Police Station, Sadar, Patiala, against respondent No.1-driver. It was further pleaded that the claimant-appellant was still getting treatment from the Hospital. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of the offending bus by respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of the fact that driver-respondent No.1 was facing a criminal trial for causing the aforesaid accident. However, while deciding issue No.2, the Tribunal had observed that claimant had only produced a discharge slip Mark-C, which was issued by Rajindra Hospital, Patiala. Except that, she had not produced any medical evidence showing the nature of injuries suffered by her in the accident. Even she had not brought copy of MLR. In the absence of any medical record, the claimant

was not held entitled to any compensation. With the above observations, claim petition was dismissed by the Tribunal. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

Learned counsel for the appellant has referred to an Award dated 29.05.2014 passed by the Tribunal in another claim petition arisen out of the same accident, bearing MAC No.81 dated 27.09.2012, titled as Santosh Vs. Jangir Singh and another. The said petition was filed by Santosh, mother of present appellant-Harjeet Kaur, who had suffered disability due to the injuries suffered in the aforesaid accident and was declared permanently disable upto 80% by Board of Doctors. In that case, the Tribunal has awarded compensation to the tune of Rs.18,02,702/- in favour of claimant-Santosh (mother of present appellant). Learned counsel for the appellant has argued that since mother of the claimant was seriously injured in the accident in question, no serious attempt was made to get the documentary evidence regarding treatment of present claimant-Harjeet Kaur.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. This Court is of the view that in the absence of any medical evidence, it is difficult to calculate the quantum of compensation. However, it is admitted fact that after the accident, offending bus had turned turtle and when it was stopped, its tyres were upwards. All the passengers apparently, suffered serious injuries in that accident. Moreover, FIR Ex.C1 was got registered against driver-respondent No.1 on the basis of statement made by Paramjit Singh, who was also travelling in the said bus. In these circumstances, discharge slip Mark-C issued by Rajindra Hospital, Patiala is sufficient evidence to show that

claimant-appellant had suffered injuries in the said accident. Family of the claimant was looking after Santosh (mother of present claimant), who was seriously injured in the accident, as is evident from the Award dated 29.05.2014. A perusal of the discharge slip Mark-C shows that she was diagnosed with head injury and after her medical examination on 30.06.2012, she had been discharged from the hospital and was referred to PGI, Chandigarh for further treatment. The version of claimant that she had not been able to produce further evidence after being referred to PGI, Chandigarh, is accepted in view of the fact that her mother was seriously injured in the accident and her family was busy in looking after her. Discharge slip Mark-C refers to the head injury, which could not be treated in Rajindra Hospital, Patiala. Taking the injury suffered by claimant-appellant to be serious in nature, she has to be held entitle for compensation.

A perusal of copies of newspapers, Mark B, whereby accident in question had been reported, shows that four people had died in the said accident. At the time of accident, claimant-appellant was studying in the school. Due to the injuries suffered in the accident, her studies had been adversely affected. Father of claimant is working as driver in Springdales Public School. Keeping in view the nature of accident and the fact that four people had died in the said accident, non production of medical record with regard to the injuries suffered by claimant-appellant could not have been made a ground to dismiss her claim petition.

Keeping in view the exceptional circumstances of the case, the impugned Award is set aside and a lump sum compensation of Rs.1,00,000/- is awarded in favour of claimant-appellant, which shall be paid by respondent Nos.1 and 2 jointly and severally along with interest at

the rate of 7.5% per annum from the date of claim petition till its realization.

Allowed accordingly.

(RITU BAHRI)
JUDGE

18.07.2017

ajp

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No