

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

FAO No.4226 of 2016

Date of decision: 02.03.2017

Manjit Kaur and another

..Appellants

Versus

M/s Taj Travels Private Ltd. and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. G.S. Gopera, Advocate for the appellants.

Daya Chaudhary, J.

The present appeal has been filed for modification of award dated 13.01.2016 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter called as 'the MACT') on the ground that meager amount of ₹2,98,557/- has been awarded as compensation for the grievous and serious injuries sustained by the appellants due to rash and negligent driving of respondent No.1.

Briefly, the facts of the case as made out in the present appeal are that on 15.11.2010 at about 2.00 pm, claimant-Manjit Kaur went to fetch her minor daughter, namely, Tavleen Kaur, from her school on her Vespa Scooter bearing registration No. PB-31-D-5340. On return, her minor daughter was pillion rider of the said scooter. On the way on Rajpura Patiala Main Road, the offending bus bearing registration No. PB-03-T-8465 driven in a rash and negligent manner struck against the scooter from behind due to which, both of them fell on the road and sustained injuries. Appellant No.1 suffered injuries on her right hand and other parts of the body whereas her minor daughter received injuries on her head, chest and other parts of the body. The driver of the offending bus fled away from the

spot along with bus and both the injured were taken to Narain Hospital, Patiala from where they were referred to Columbia Asia Hospital, Patiala and because of serious injuries, appellant No.2 was referred to Fortis Hospital, Mohali. FIR No.548 dated 16.11.2010 was registered under Sections 279 and 337 IPC at Police Station Sadar, Patiala. A claim petition was filed by both the appellants before the MACT and ₹35 lacs were claimed as compensation along with interest on account of injuries suffered by them in the accident.

The said claim petition was contested by the owner and driver of the offending vehicle on the grounds of maintainability, jurisdiction and falseness. Similarly, the Insurance Company contested the claim on the ground that the driver of the bus was not possessing a valid driving licence and the vehicle was not having a valid route permit and fitness certificate. The claim of the appellants was allowed vide award dated 13.01.2016 by the MACT and an amount of ₹2,98,557/- was awarded as compensation to both the claimants. The claimants were also held entitled to interest @ 9 % per annum from the date of institution of claim petition till its realization. The driver, owner and insurer of the offending bus were held jointly and severally liable to pay the compensation.

The present appeal has been filed by the appellants for enhancement of the amount of compensation on the ground that less amount has been awarded as compensation and that appellant No.2 is still under treatment of Neuro Surgeon, which will continue at least for next three years.

Learned counsel for the appellants submits that the appellants

have spent an amount of ₹10 lacs on their medical treatment and they will

have to spent ₹10,000/- per month on tests and medical expenses. Learned counsel further submits that appellant No.2 has been disabled to the extent of 50% and it will affect her whole life. Learned counsel also submits that the inadequate compensation has been awarded taking into consideration the future medical expenses and consequent follow up treatment and only an amount of ₹5000/- has been awarded towards pain and sufferings. At the end, learned counsel for the appellants submits that keeping in view the nature of injuries and disability, much more amount should have been awarded.

Heard arguments of learned counsel for the appellants and have also perused the impugned award as well as other documents available on the file.

The MACT by considering the age of the claimants has awarded compensation amounting to ₹2,98,557/- and while deciding the claim petition, it was observed that no evidence has been adduced by appellant No.1 qua medical expenses incurred on her treatment. Head Constable Shamsheer Singh visited the hospital where both the appellants were admitted and he came to know that appellant No.1-Manjit Kaur had already been discharged after treatment. Even no bills or documents were produced qua treatment of appellant No.1 and in absence of any document, the lumpsum compensation of ₹5000/- was awarded to appellant No.1-Manjit Kaur. Appellant No.2 remained admitted in Fortis Hospital, Mohali from 15.11.2010 to 01.12.2010. CW2-Gaurav Sharma has proved admission of appellant No.2-Tavleen Kaur in the hospital but in cross-examination, he had stated that as per Ex.CW2/1, ₹50,000/- were paid by the Parked

patient to the tune of ₹2,31,552/-. It has also been mentioned in the award that total amount of bills comes to ₹24,535/- to which, appellant No.2- Tavleen Kaur has been held entitled.

So far as the disability suffered by appellant No.2 is concerned, appellant No.1 has stated in her cross-examination that she does not have any disability certificate and her daughter is studying in 7th standard and she has not suffered any break in her studies. By considering the statement made by appellant No.1, she was not found entitled for any compensation other than the medical bills and an amount of ₹2,93,557/- was awarded as compensation.

Nothing has been mentioned in the award as well as in the arguments raised before this Court as to whether any opinion has been given by the doctor for follow up treatment or not. Even nothing has been brought to the notice of this Court to show that appellant No.2 is still undergoing treatment from the doctor. Appellant No.2 has been awarded compensation on account of medical expenses, pain and suffering, expenses for attendant, transportation expenses as well as special diet and it cannot be said on any account that the amount of compensation is inadequate or the appellants are entitled for enhancement of compensation.

Accordingly, there is no merit in the arguments raised by learned counsel for the appellants and the appeal being devoid of any merit is dismissed.

02.03.2017
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No