

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.7948 of 2014 (O&M)
Date of Decision : 05.12.2017

RAVINDER

....APPELLANT

VERSUS

GOVIND AND ANOTHER

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. J.P. Sharma, Advocate
for the appellant.

Mr. Rajbir Singh, Advocate
for respondent No.2.

B.S. WALIA, JUDGE (ORAL)

CM-21406-CII-2014

For the reasons mentioned in the application, delay of 112 days in late filing of the appeal is condoned.

FAO No.7948 of 2014

[1] Appellant seeks enhancement of the compensation of Rs.3,63,166/- awarded to him by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the Tribunal) vide Award dated 03.10.2013.

[2] Brief facts of the case, leading to the filing of the instant appeal are that the appellant-Ravinder along with others was waiting for a vehicle on the *Kacha* berm on the correct side of the road near Forestry of village Jerpur, Thana after attending lagan ceremony at village Mandola on 06.02.2012 when a M&M Marshal Jeep No. RJ-18UA-3371 driven by

respondent No.1, Govind son of Kedarmal, resident of Chhoti Pachari,

Tehsil Buhana came from Village Mandola side while being driven in a rash and negligent manner at a high speed and hit the appellant and ors as a result of which the appellant and others sustained injuries whereupon they were taken to GH Mahendargarh, PGIMS, Rohtak as well as to Dr. Rajender Singh Jain, Jaipur whereupon the appellant received treatment and was also operated upon. Claim petition was filed by the appellant for award of Rs.15,00,000/- as compensation besides future treatment charges as well as interest @ 12% per annum w.e.f. the date of accident till realization.

3. Respondent No.1 in its stand before the Tribunal denied the occurrence of the accident and took up the plea of false implication while the Insurance Company took up the stand that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident, besides respondent No.1 had been falsely involved in the case and the whole story was concocted and fabricated.

4. On the basis of the evidence led before the Tribunal, the Tribunal awarded a sum of Rs.3,63,166/-. Relevant extract of the Award is reproduced as under:-

“29. The overall compensation is determined and is tabulated as follows:-

<u>Sr. No.</u>	<u>Head of Claim</u>	<u>Amount (Rs.)</u>
1.	Medical Expenses	12,406/-
2.	Loss of earning capacity	2,63,953/-
3.	Transportation	11,808/-
4.	Plain and suffering	10,000/-
5.	Special Diet	5,000/-
6.	Attendant Charges	10,000/-
7.	Permanent disability	50,000/-

Total 3,63,166/-

30. Accordingly an amount of Rs.3,63,166/- is awarded to the petitioner on account of injuries sustained by him in the accident.”

[5] Learned counsel for the appellant contended that the income of the injured-appellant who was a student of Polytechnic had been taken at Rs.4,888/- per month and that after he had done diploma, he would have earned minimum of Rs.30,000/- per month. On the basis of the same learned counsel contended that in the circumstances, the appellant was entitled to higher compensation. Learned Counsel further contended that the appellant was only 21 years of age at the time of accident, therefore was entitled to award of Rs.5,00,000/- towards loss of marriage prospects, Rs.5,00,000/- towards pain and suffering on account of 25 % permanent disability as against Rs.10,000/- awarded besides compensation of minimum of Rs.5,00,000/- on account of 25% permanent disability. Lastly, it was contended that compensation on account of attendant charges, special diet and transportation charges had been awarded on very low side and minimum of Rs.1,00,000/- ought to have been awarded under each head.

[5] Learned counsel for the respondent-Insurance Company on the other hand contended that the learned Tribunal had rightly awarded compensation and vehemently opposed the claim for enhancement.

[5] A perusal of order dated 27.02.2017 passed by the learned Lok Adalat reveals that the appellant had offered to settle in full and final satisfaction his claim for enhancement in case Rs.50,000/- was paid by the Insurance Company over and above the amount awarded by the learned Tribunal. Learned counsel for the Insurance company on the other hand made a counter offer on 19.04.2017 to settle the matter with the appellant at Rs.35,000/- instead of Rs.50,000/-, as a result of which the dispute could not be resolved. Today, on query by the Court, learned counsel for the insurance company agreed to settlement of the dispute by making payment of Rs.50,000/- to the

appellant over and above the amount awarded by the learned Tribunal in full and final settlement of the claim of the appellant. The same satisfies counsel for the appellant.

[8] Accordingly, award dated 03.10.2013 passed by the learned Motor Accident Claims Tribunal, Narnaul in MACT No.81 of 2012 is modified to the extent as noted above. Resultantly, the appellant is held entitled to additional sum of Rs.50,000/- to be paid within six weeks from today by way of demand draft by registered speed post in full and final settlement of his claim. It is made clear, that in case the aforementioned sum of Rs.50,000/- is not remitted to the appellant within the period as stipulated above, then in that eventuality, the same would bear interest @ 6% per annum with effect from the date of the claim petition till the date, the same is paid.

[9] Appeal disposed of in above terms.

(B.S. WALIA)
JUDGE

December 05, 2017

rajneesh

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No