

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

FAO No.3314 of 2015 (O&M)

Date of decision: 23.03.2018

Anmol

.... Appellant

Versus

Santosh Kumar and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr.Rajesh Gupta, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for respondent No.2.

Avneesh Jhingan, J.

The present appeal arises from the award dated 14.01.2015 passed by Motor Accidents Claims Tribunal, Pathankot (hereinafter referred to as the 'Tribunal').

On 10.11.2013, the appellant accompanied his family for a marriage function. The family alighted the bus but the appellant was ahead by few yards. The bus came from backside and hit him. His both legs were crushed. He was taken to Civil Hospital, Pathankot, from there he was taken to Chauhan Hospital. The appellant was 9 years of age at the time of the accident.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal held that accident occurred due to rash and negligent driving of the offending bus.

The Tribunal awarded a sum of Rs.8,55,000/- as compensation, including Rs.2 lakhs compensation for permanent disability.

The present appeal has been filed for enhancement of

compensation.

Learned counsel for the appellant relies upon the judgment of the Supreme Court in case of **Master Mallikarjun vs. Divisional Manager , the National Insurance Company Ltd. & anr., in Civil Appeal No.7139 of 2013, decided on 26.08.2013.** His contention is that the Supreme Court has laid down the guidelines for compensation to be awarded in case of permanent disability suffered by a child. His grievance is that the amounts awarded under the various heads are on the lower side.

From the perusal of the record particularly the disability certificate, it is not evident that what is the disability percentage qua the whole body. In the Supreme Court's decision, the amount of compensation has been given vis-a-vis the percentage of permanent disability qua the whole body.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to decide the issue for enhancement of compensation. It would be important to ascertain percentage of disability of whole body. Both the parties would be at liberty to adduce fresh evidence in support of their case, if so desired.

The parties are directed to appear before the Tribunal on 31.05.2018.

The appeal is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

23.03.2018

anju

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