

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

**FAO No.6299 of 2013 (O & M)
Date of Decision:-06.2.2018**

Mandeep Singh @ Navdeep Singh @ Buta (minor)

...Appellant

Versus

Jai Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amandeep Singh Rai, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3-insurance company.

AMIT RAWAL J.(Oral)

The present appeal has been preferred by the claimant Mandeep Singh @ Navdeep Singh @ Buta (minor) through his father Makhan Singh, who sustained injuries in a roadside accident occurred on 3.11.2007. The claimant was at first admitted in Apollo Hospital, Ludhiana from where he shifted to CMC Hospital, Ludhiana where he remained admitted from 3.11.2007 to 4.12.2007 and a sum of Rs.1,50,000/- were

spent on his treatment and he suffered permanent disability of 75% as per Ex.PW3/A. He was awarded compensation to the tune of Rs.1,31,433/-, which is stated to be very meager and prays for enhancement of compensation. In support of his contentions, learned counsel for the appellant has relied upon ratio decidendi culled out by Hon'ble Supreme Court in **Master Mallikarjun vs. Divisional Manager, The National Insurance Company Limited and another 2013(4) RCR (Civil) 295** that as per Section 163-A of the Motor Vehicles Act, 1988, there is structured formula which is not to be followed in case of award of compensation to a child who suffered permanent disability in a motor accident. In addition to actual expenditure following compensation awarded in respect of permanent disability :-

- “i) For permanent disability upto 10% Rs. One Lakh.
- ii) Disability above 10% and upto 30% Rs. 3 Lakh.
- iii) Disability upto 60% Rs.4 Lakh
- iv) Disability upto 90% Rs.5 Lakh
- v) Disability above 90% Rs.6 Lakh.”

On the other hand, learned counsel appearing on behalf of the Insurance Company does not dispute the aforesaid factum.

Though it is difficult to have an accurate assessment of the compensation in case of children suffering disability on account of a motor vehicle accident. But in view of the case law in **Master Mallikarjun's** (supra), the appeal stands allowed the award passed by the MACT is modified. The claimant will be entitled to a total compensation of rupees

five lac (on account of disability of 75%) plus Rs.1,31,433/- as awarded by the Tribunal (on account of medical expenses and pain and sufferings) = Rs.6,31,433/-. The enhanced amount of compensation shall entail interest @ 6% per annum from the date of filing of appeal. The Insurance company is directed to deposit the enhanced compensation with interest as above within a period of two months from today. On such deposit, it will be open to the appellant to approach the Tribunal for appropriate orders for withdrawal. The appeal is allowed as above.

February 06, 2018
Vijay Asija

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No