

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

-.-

FAO 2499 of 2018 (O&M)
Date of decision: 08.05.2018

Balbir Singh alias Lovely

..... Appellant

Versus

Sanjeev Kumar and another

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. D S Gurna, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 12.10.2017 passed by the Motor Accidents Claims Tribunal, Kurukshetra (in short, 'the Tribunal') whereby compensation has been awarded on account of injuries sustained by Sanjeev Kumar in a motor vehicular accident that took place on 07.10.2015.

The Tribunal has awarded compensation to the tune of Rs.16,18,923.00, detailed in para 38 of the award but the claimant has been held entitled to 50% of total compensation i.e. Rs.8,09,461.00 as 50% negligence has been attributed to the victim.

Counsel for the appellant (driver of the offending vehicle) would urge that the Tribunal has attributed 50% negligence to the victim when as a matter of fact, the victim was exclusively responsible for the occurrence, therefore, he is not entitled to get any compensation being a tort

feasor. The second submission made by counsel is that the Tribunal has assessed income of the victim at Rs.7,000.00 per month for computing loss of future earning but minimum wage at the relevant time was approximately Rs.6,000.00 per month.

I have heard counsel for the appellant and perused the paper book particularly the award.

The Tribunal, on a detailed consideration of the materials on record, has held in para 19 that not only driver of the combine was rash and negligent, same is true for the claimant. He was also required to maneuver a safe passage for himself and his motor cycle which he failed to do. It was evidently a case of poor driving and judgment on the part of claimant as well.

Counsel for the appellant has failed to invite attention of the Court to any such materials on record to substantiate his plea that findings of the Tribunal attributing 50% negligence to driver of harvesting combine are erroneous. In this view of the matter, I do not find any reason to interfere in findings of the Tribunal attributing 50% negligence to driver of the harvesting combine.

So far as plea to assail quantum of compensation assessed, the Tribunal has assessed income of the victim at a rate higher than minimum wage available at the relevant time but compensation awarded by the Tribunal under certain other heads may require increase if claimant files an appeal for enhancement, therefore, I do not find any reason to interfere in assessment made by the Tribunal.

For the foregoing reasons, the appeal fails and is accordingly

dismissed in limine. However, nothing stated hereinbefore shall cause prejudice to the claimant in case he files an appeal for enhancement of compensation.

(Rekha Mittal)
Judge

08.05.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No