

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: July 09, 2018

+ **MAC.APP. 102/2013**

U.P. STATE ROAD TRANSPORT CORPORATIONAppellant

Through: **Mr. Shahdab Khan, Advocate for
Ms.Garima Prashad, Advocate**

Versus

MASTER SACHIN CHAUHAN (MINOR) Respondent

Through: **Mr. S.N. Prashar, Advocate**

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 20th October, 2012 grants compensation of ₹6,47,120/- with interest @ 7.5% per annum to respondent/injured- *Sachin*, aged 11 years, on account of grievous injury suffered by him in a vehicular accident, which took place on 15th June, 2009. The facts as noticed in the impugned Award are as under:-

“The brief facts, as stated by petitioner, are that on 15.06.2009, petitioner was coming from Badaiun to Delhi, by Badaiun Roadways bus bearing no. UP-25T-9103 and the driver of the said vehicle was driving the bus rashly and negligently and hit a stationary tractor trolley. The petitioner and other passengers suffered injuries and the petitioner was taken to EMO District Hospital, Bulandshahr, U.P. and had suffered grievous injuries all over his body.”

2. To render the impugned Award, learned Motor Accident Claims Tribunal (*hereinafter referred to as the “Tribunal”*) has relied upon

evidence of PW-1, *Suresh Chauhan*, father of injured and PW-2, *Dr. Binod Kalita*, Orthopedic Specialist and as per evidence of this witness, injured had suffered 71% disability in relation to left upper limb. On the strength of evidence recorded, impugned Award has been rendered. The breakup of compensation awarded by Tribunal is as under:-

1.	Compensation towards pain and suffering	₹1,00,000/-
2.	Loss of amenities and enjoyment	₹1,00,000/-
3.	Compensation towards disfiguration	₹1,00,000/-
4.	Loss of earning capacity due to injuries	₹ 2,07,675/-
5.	Compensation towards loss of marriage prospects	₹1,00,000/-
6.	Compensation towards loss of studies for 3 months	₹15,000/-
7.	Expenses towards medical bills	₹9,444/-
8.	Compensation towards conveyance and special diet (without bills)	₹15,000/-
	Total	₹6,47,119/- (rounded off to ₹6,47,120/-)

3. Since appellant had questioned the assessment of functional disability, therefore, vide order of 18th May, 2016, respondent-injured was directed to appear before the Medical Board of 'Institute of Human Behaviour and Allied Sciences' (*IHBAS*) to ascertain the extent of neurological disorder and as per report received from *IHBAS* vide letter of 25th January, 2017, the neuropsychological and locomotor disability (left hemiparesis) is assessed to be 45%, which is permanent in nature.

4. Learned counsel for appellant-owner assails impugned Award on the ground that quantum of compensation granted is on the higher side

and it needs to be suitably reduced. Learned counsel for appellant-owner submits that compensation of ₹1,00,000/- granted under the head of “*disfiguration*” is unjustified, as respondent-injured had not suffered any disfiguration on account of injuries suffered in this accident. It is further submitted by counsel for appellant-owner that the compensation of ₹1,00,000/- granted under the head of “*pain and sufferings*” is on the higher side, as the disability suffered by injured is not 71% but 45% and so, compensation granted under the other heads also be reduced.

5. On the contrary, learned counsel for respondent-injured supports the impugned Award and maintains that the compensation granted is just and proper.

6. Upon hearing and on perusal of impugned Award and the evidence on record, I find that the Tribunal has erroneously granted compensation under the head “*disfiguration*”. Infact, the compensation of ₹1,00,000/- granted under this head needs to be converted into the head of “*loss suffered due to disability*”. Although the functional disability as per Report of 25th January, 2017 from *IHBAS* is 45%, but I find that the compensation of ₹1,00,000/- granted under the head “*pain and suffering*” and other heads is just and proper. Such a view is being taken as PW2-Dr. *Bimal Kalita* in his evidence has categorically stated that the disability suffered by injured is of permanent in nature and there is no likelihood of improvement or deterioration in the percentage of disability.

7. In view of above, this Court finds that the compensation granted to respondent-injured is justified and no case for reduction of compensation is made out. This appeal is accordingly dismissed. Registry is directed to forthwith release the amount of compensation to respondent-injured in

terms of impugned Award. Statutory deposit, if any, be refunded to appellant.

8. With aforesaid directions, this appeal is disposed of.

(SUNIL GAUR)
JUDGE

JULY 09, 2018

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