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

FAO No.377 of 2007

Date of Decision: 14.02.2019

Manish Kumar

Appellant

Versus

Prabhu Dayal Sharma and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Amrita Nagpal, Advocate for
Mr. Lokesh Sinhal, Advocate
for the appellant.

None for respondent No.1.

Ms. Monika Singh, Advocate for
Mr. Anil Kumar Gahlawat, Advocate
for respondent No.2.

AVNEESH JHINGAN, J (Oral):

This is an appeal filed by the claimant against award dated 09.10.2006 passed by the Motor Accident Claims Tribunal, Faridabad [for brevity 'the Tribunal'] seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

Brief facts of the case are that a motor vehicular accident

took place on 06.10.2004. The appellant was going on his motorcycle and was followed by his elder brother on a separate motorcycle. When they reached near village Bamikhera, the motorcycle of the appellant was hit by the rashly and negligently driven bus bearing registration No. RJ-05P-1092 [for brevity 'offending vehicle']. As a result of the impact, the appellant sustained injuries and was admitted to Diamond Hospital at Palwal and then he was admitted to Sun Flag Hospital & Research Centre, Faridabad. He remained hospitalized from 06.10.2004 to 18.10.2004.

A claim petition was filed under Section 166 of the Act. The Tribunal on considering the facts and appreciating the evidence adduced held that the accident was caused due to the rash and negligent driving of the offending vehicle. Respondents were held liable to pay the compensation. The Tribunal awarded compensation of ₹25,000/- alongwith interest @ 7.5% per annum.

Learned counsel for the appellant contends that there were medical bills of ₹67,206/- but the Tribunal awarded a sum of ₹25,000/- only. Her grievance is that the amount awarded by the Tribunal is on the lower side.

Learned counsel for respondent while defending the award argues that the appellant failed to adduce any evidence to prove nature of injuries sustained and medical treatment undergone by him.

During the proceedings before the Tribunal, though bills of ₹67,216/- were produced and some authorised persons issuing

the bills had deposed before the Tribunal but Doctor appearing before the Tribunal nowhere proved the nature of injuries sustained and treatment given. In such circumstances, the Tribunal came to the conclusion that the bills have been procured as nature of injuries mentioned by the Doctor in his deposition were not akin to the medical bills produced, the bills were not found worth reliance.

However, no serious dispute has been raised to the fact that the appellant remained hospitalized for 12 days. Considering the fact of hospitalization for 12 days, in order to compensate under various heads, even in absence of any proof, the amount of ₹25,000/- awarded by the Tribunal is enhanced to ₹60,000/-.

It is clarified that while enhancing the amount, interest to be awarded under Section 171 of the Act has been taken into consideration.

Disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

February 14, 2019
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |