

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3731 of 2016 (O&M)

Date of Decision: 31.05.2019

Mukhtiyari

.....Appellant

Versus

Om Bhagwan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sunny Namdev, Advocate for
Mr. Surabh Dalal, Advocate
for the appellant.

AVNEESH JHINGAN, J.(oral)

Aggrieved of the award dated 29.1.2016 passed by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') passed in MACT Case No. 43 of 2014, the present appeal has been filed seeking enhancement of compensation awarded.

The facts in brief are that on 3.6.2014 Vajeer @ Wazir alongwith Rajbala @ Bala and other occupants Mukhtiyari, Ritik, Pawan and Roshni was going to village Kharawar from Nazafgarh, Delhi in an Auto bearing registration No.HR-46-C-7191. On their way, the auto was struck by a car bearing registration No.HR-10-S-8289 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, the auto turned turtle and the occupants sustained injuries. FIR was registered.

In the claim petition filed, the Tribunal opined that the accident was result of rash and negligent driving of the offending vehicle. The owner, driver and insurer were held jointly and severally liable to pay compensation.

In the claim petition it was pleaded that the claimant suffered fracture on skull, head and nasal bone. It was claimed that the medical expenses incurred were more than ₹90,000/-. A claim of ₹12,00,000/- was sought. The photocopy of discharge card was exhibited as Ex.P27 (original was exhibited as Ex.P75). From discharge card it was forthcoming that the claimant was admitted in PGIMS Rohtak w.e.f. 3.6.2014 to 4.6.2014. A tampering was done in the date by which it was changed to 24.6.2014. OPD Cards were exhibited as Ex.P23 to Ex.P26. No medical bills were produced. There was no deposition of any Doctor or official of the hospital. There was nothing on record to prove the expenses incurred, nature of injuries, type of treatment. The Tribunal awarded ₹5000/- for medical expenses and ₹5000/- for pain and suffering, along with interest at the rate of 7.5.% per annum.

Learned counsel for the appellant argued that the amount awarded by the Tribunal is on lower side as various pecuniary and non-pecuniary heads have not been considered.

There is no scope for enhancement.

The claimant failed to adduce any evidence to prove the nature of injuries, type of treatment. The appellant has not approached the Tribunal with clean hands as there was tampering with the discharge card. In such circumstance, no case is made out for awarding compensation under various other pecuniary and non-pecuniary heads.

The appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

31.05.2019
reema

Whether speaking/reasoned
Whether Reportable:

Yes
No