

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5425 of 2015 (O&M)

Date of Decision: 29.04.2019

Ram Niwas

.....Appellant

Versus

Nem Chand and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajat Garg, Advocate for
Mr. Aditya Jain, Advocate
for the appellant.

AVNEESH JHINGAN, J.(oral)

The award dated 29.1.2015 passed by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') in MACT Case No. 85, MACP/0001877/2014 has been assailed seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for the injuries sustained in the accident.

The facts necessary for adjudication of the present appeal are that on 15.3.2014 appellant along with Mukesh was riding a motor cycle bearing registration No.HR-26-N-8438, being driven by appellant. On the way, the motor cycle was hit by a car bearing registration No. HR-27-D-6373 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, both the riders fell down and sustained injuries. A claim petition was filed under Section 166 of the Act. The owner-cum-driver of the offending vehicle and insurer i.e. Reliance General Insurance Company Ltd., were arrayed as respondents No. 1 and 2 before the Tribunal.

In the claim petition it was pleaded that the deceased sustained

injuries and was hospitalised on 15.3.2014 and discharged on 16.3.2014.

Thereafter he got admitted in Rahdey Hospital on 18.3.2014 and was operated upon on 19.3.2014 and got discharged on 20.3.2014. The receipt and cash memos were produced. The Tribunal considering the facts and appreciating the evidence adduced held that the accident was caused due to rash and negligent driving of the offending vehicle. The owner-cum-driver and insurer were held jointly and severally liable to pay the compensation.

Dr. Gurdeep Singh PW1 deposed before the Tribunal and proved the fact that the appellant was admitted in Radhey Hospital on 18.3.2014 and appellant was operated upon on 19.3.2014 and discharged on 20.3.2014. He further proved discharge summary Ex.P1, receipts Ex.P2, Ex.P2/A and Ex.P2/B, cash memos Ex.P3 to Ex.P7 and blood report Ex.P8. Dr. Bhupender Singh Chauhan, Visiting Consultant, Shree Radhey Hospital, Manesar deposed as PW5. He proved the MLR Ex.P14. He stated that the appellant was examined on 15.3.2014 and was discharged on 16.3.2014. Considering the facts and evidence, the Tribunal awarded a sum of ₹ 95,000/- along with interest at the rate of 7.5% per annum. The detail of compensation awarded is reproduced below:

Sr. No.	Particulars	Amount awarded (₹)
1.	Pecuniary Damages Loss of income	18,000/-
2.	Transportation charges	10,000/-
3.	Attendant charges & special diet	Nil
4.	Medical expenses	46,884/-
5.	Non-pecuniary damages Pain and suffering	20,000/-
6.	Loss of amenities of life	Nil
7.	Loss of prospects of marriage	Nil
	Total	94,884/- (rounded off as ₹ 95,000/-)

In the claim proceedings it was pleaded that the appellant was engaged in the business of shuttering but he failed to produce any evidence with regard to his income.

Learned counsel for the appellant argues that the compensation awarded under various pecuniary and non-pecuniary heads is on lower side.

From the perusal of the record, it is evident that there was no permanent or temporary disability. The period of hospitalisation was very short. Though there is a deposition only to effect that he was operated upon on 19.3.2014 but no detail was given with regard to nature of injuries and type of treatment rendered. It is to be noted that it was stated that he was operated upon on 19.3.2014 but was discharged on 20.3.2014. The Tribunal while awarding the compensation has considered all the bills produced and proved before it. The compensation under various heads has also been awarded. Loss of income for three months was awarded despite the fact that there was nothing on record to show that he was not able to attend his occupation for three months.

There is no scope for enhancement.

The appeal is accordingly dismissed.

Since the appeal is dismissed on merits, the question of limitation is kept open.

29.04.2019
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable:	No