

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3912 of 2018 (O&M)

Date of Decision: 22.04.2019

Sabir

.....Appellant

Versus

Sangram Raghunath Bodke and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Brijender Singh, Advocate
for the appellant.

AVNEESH JHINGAN, J.(oral)

The award dated 13.9.2017 passed by Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'the Tribunal') has been assailed by the claimant seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') on account of the injuries sustained in a motor vehicular accident that took place on 4.8.2012.

The facts are summarised below:

On 4.8.2012 Sabir along with driver Bashir Khan after loading Truck No. MH-15/BJ/3092 left from Raymond Company Branch at Gonde, Police Station Igatpuri. On their way, the truck was struck by a vehicle bearing registration No.MH-15/BK-0003 (hereinafter referred to as 'the offending vehicle'). As a result of the impact, Sabir fell down and sustained injuries including fracture on his right leg tibia fibula bones. He was admitted in Civil Hospital Nashik from where he was taken to Shree Yash Hosptial,

In the claim petition filed it was proved that the accident took place due to rash and negligent driving of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

In the claim proceedings, it was pleaded that the claimant was working as a cleaner on the truck and was earning ₹ 9000/- per month. Disability certificate was exhibited showing the permanent disability to the extent of 9% on account of restricted and painful movement of right knee and ankle. Dr. Pankaj Aggarwal deposed to prove the disability certificate. He stated that the disability of 9% qua the limb can be reduced by 1 to 2% by good physiotherapy.

The claimant made a statement that he was undertaking treatment with a 'desi hakim' and thereafter he remained admitted in Shree Yash Hospital, Nashik from 4.8.2012 to 8.8.2012 and spent ₹ 31,300/-. Photocopy of the final bill and discharge summary were placed on record but original were not produced. No official or Doctor of Shree Yash Hospital was examined to prove the pleadings with regard to treatment taken. The Tribunal considering that the Doctor stated that 9% permanent disability can be reduced by 1 to 2%, took 8% disability qua the limb for the whole body. The claimant failed to prove the monthly earning and the Tribunal assessed the monthly income as ₹ 6000/- and applied multiplier of 17. The Tribunal awarded a sum of ₹ 1,58,920/- along with interest at the rate of 7.5% per annum.

The detail of compensation awarded by Tribunal is tabulated below:

Sr. No.	Heads of compensation	Amount (₹)
1.	Transportation charges	10,000/-
2.	Medical expenses	10,000/-
3.	Pain and suffering	20,000/-
4.	Loss of future income	97,920/-
5.	Absent from work	6000/-
6.	Loss of future enjoyment of life	15,000/-
7.	Total	1,58,920/-

Learned counsel for the appellant argued that photocopy of medical bills produced were not considered and the amount of ₹ 31,300/- was not reimbursed. It is further contended that the amounts awarded under various heads are on lower side.

The contentions raised by learned counsel for the appellant are not well founded. Only photocopy of medical bills and discharge summary were produced. Not only that neither any official nor any doctor from Shree Yash Hospital was examined to prove the bills and the discharge summary. The Tribunal still considering that the claimant must have incurred some expenses on treatment awarded ₹ 10,000/- towards medical expenses. For awarding the compensation for permanent disability, the Tribunal taking a liberal view took the 8% disability qua the limb vis-a-vis the whole body even though there is nothing on record to show that the functional ability of the claimant would be affected. The Tribunal considering the facts in entirety has awarded compensation under various pecuniary and non-pecuniary heads.

There is no scope for enhancement.

The appeal being without merits is hereby dismissed.

Since the main appeal is being decided on merit, the question regarding condonation of delay is kept open.

22.04.2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No