

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

FAO 16285/2018

Date of decision: 19.12.2022

Karam Singh @ Kamal

.....Appellant

Vs.

Sanjiv Kumar and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Manoj Kumar Sharma Advocate for the appellant.

Nidhi Gupta, J.

This appeal has been filed by the claimant seeking enhancement of compensation of Rs.10,072/- vide Award dated 1st of August 2018, passed by Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'The Tribunal') in MACT case number 03 of 18.2.2017 filed under section 166 of the Motor Vehicle Act, 1988, on account of injuries suffered by the claimant/appellant in a motor vehicular accident that took place on 25.5.2016 due to rash and negligent driving of Mahindra TUV 300 bearing registration No. PB-07-AZ-1340 (hereinafter referred to as 'the offending vehicle'), being driven by respondent no.1-Sanjiv Kumar.

It is submitted by the learned counsel for the appellant that the appellant has suffered fracture of left arm and right arm was totally damaged and right thigh was also fractured and stomach was cut down, yet only Rs.10,072/- with interest @ 6% per annum has been granted by the learned Tribunal. It is further submitted by the learned counsel that the appellant has suffered

permanent disability to the extent of 40% yet nothing has been granted by the learned Tribunal.

I have heard learned counsel for the appellant.

A perusal of the record shows that in actual fact, the appellant/injured had entered into a compromise with respondent-driver of offending vehicle as per which, respondent No.1-driver had agreed to bear all the medical expenses of the appellant. It was submitted on behalf of the appellant before the Id. Tribunal that however, only Rs. 60,000/- was given by respondent No.1 to the family members of the injured although Rs.6,00,000 was spent on his treatment and Rs.50,000 on transportation etc. As such, respondent had resiled from the compromise. Further stated that the only reason as to why the appellant filed the claim petition was due to the grievance that respondent no.1 made payment of only Rs.60,000/- and did not make any further payment regarding the appellant's medical treatment.

In response, respondent No.1 stated before the Tribunal that the appellant had already received a sum of Rs. 1.80 lakhs which amount too was given out of sympathy because the respondent-driver had not been negligent in any manner. In this regard, writing dated 1.6.2016 was referred to by respondent which was signed by relatives of claimant/appellant. Respondent no.1-driver has further stated before the Tribunal that no FIR was registered in the case by the appellant as the respondent was not negligent in driving the offending vehicle. Admittedly, the copy of the compromise is on record as Mark A whereby respondent had agreed to bear all the expenses pertaining to the medical treatment of the clamant/appellant.

Further record reveals that on the contrary, AW-1 Mother of the claimant has stated in her cross examination that she had not seen the occurrence

and has admitted that respondent no.1 had given Rs.1.80 lacs to them for treatment. The claimant himself when cross examined as AW-2 has admitted that Rs. 1,20,000/- was paid by the respondent and another sum of Rs. 60,000/- was also paid, thus a total of Rs.1.80 lacs had been spent by respondent Sanjiv Kumar on his treatment and the matter was settled with respondent no.1.

Perusal of the record also shows that medical bills which were proved on record from Ex. A1 to Ex. A93 show that an amount of Rs.1,30,072/- was spent on the treatment of the appellant. In view of these admitted facts that the matter had been settled between the parties, the learned Tribunal had refrained from interfering in the matter and had allowed the appellant's claim petition only with regard to the remaining amount of Rs.10,072/- only.

Learned counsel for the appellant is unable to controvert the above said findings on record. Appellant during his cross examination had himself admitted that he was paid Rs.1.80 lacs by respondent no.1. Even no reliable and/ or substantial medical record of injuries claimed to have been suffered by the appellant, as also treatment supposed to have been undergone by the appellant, has been placed on record before the Tribunal, or this Court, in proof of the same.

In view of the above, finding no ground to interfere in the impugned Award, this appeal is dismissed.

(Nidhi Gupta)
Judge

19.12.2022
Joshi