

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

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FAO-388-1997

Date of decision: 06.12.2023

Dr. Adarsh Gupta

.....Appellant

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellant.

Mr. Lajwant Singh Virk, Advocate, Addl. Standing Counsel
for U.T., Chandigarh.

Mr. Amrinder Sidhu, Advocate
for respondent No.3.

AMAN CHAUDHARY, J.

1. The present appeal has been filed by the claimant-appellant for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') vide award dated 25.08.1996, on account of injuries received by him in a motor vehicular accident.

2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch. Since, the case is pending for the last more than 26 years, learned counsel for the respondents have no objection, in case the same is decided on basis of the available record.

3. It has been averred in the grounds of appeal that from the statement of PWs, it is proved on record that due to negligence of the driver of the offending truck, the accident had occurred in which the appellant suffered injuries. In this regard a DDR was also registered. However, the

Tribunal has committed grave error while deciding the issue against him by ignoring the said facts. Even no compensation for 'no fault liability' was granted to the appellant.

4. On the other hand, learned counsel for the respondents oppose the prayer and submit that the Tribunal after evaluating the evidence has rightly dismissed the claim of the appellant, thus, there is no need of reappraisal of the same and be dismissed the present appeal.

5. Heard and perused.

6. A perusal of the award reveals since, the claimant-appellant failed to prove that the accident took place due to rash and negligent driving on part of respondent No.3, driver of the offending vehicle, as such learned Tribunal rightly dismissed the petition by meticulously examining the evidence and no glaring defect in the procedure or any patent error can be said to have been committed in ignorance of law, while arriving at the conclusion aforesaid, which may have resulted in flagrant miscarriage of justice.

7. Pertinently, the Daily Diary Report Ex.R1 was registered with regard to the accident. The occurrence of the accident and identity of the vehicle involved in the accident is not in issue. Perusal of the award shows that as per Ex.P2, the appellant was admitted in PGI and discharged on 11.09.1994, on account of injuries on head, right shoulder and hand. Thereafter, he visited a private Hospital, Sector-34 as per Ex.P3. Further, there was deformity in the little finger.

8. In view of the above, the present case can be considered for

grant of compensation under the head of 'No fault liability', for which a gainful reference can be made to the judgment in **Eshwarappa vs. C.S. Gurushanthappa**, (2010) 8 SCC 620, wherein the claim for no-fault liability was rejected by the Tribunal as well as High Court, which was set aside by Hon'ble the Supreme Court after making the observations which read thus:

“19. Seen thus, the provisions of Chapter X together with Sections 146 and 147 would appear to be in furtherance of the public policy that in case of death or permanent disablement of any person resulting from a motor accident a minimum amount must be paid to the injured or the heirs of the deceased, as the case may be, without any questions being asked and independently of the compensation on the principle of fault.

20. The provisions of Section 140 are indeed intended to provide immediate succour to the injured or the heirs and legal representatives of the deceased. Hence, normally a claim under Section 140 is made at the threshold of the proceeding and the payment of compensation under Section 140 is directed to be made by an interim award of the Tribunal which may be adjusted if in the final award the claimants are held entitled to any larger amounts. But that does not mean, that in case a claim under Section 140 was not made at the beginning of the proceedings due to the ignorance of the claimant or no direction to make payment of the compensation under Section 140 was issued due to the oversight of the Tribunal, the door would be permanently closed. Such a view would be contrary to the legal provisions and would be opposed to the public policy.”

9. In light of the law laid down in **Eshwarappa** (supra), this Court finds that the ends of justice would be adequately met if a sum of Rs.25,000/- is granted to the claimant-appellant under Section 140 of the Act. Ordered accordingly. The present appeal is disposed of with a direction to respondent Nos.1 and 2 to pay the aforesaid amount to the appellant alongwith interest @ 7.5% per annum from the date of filing of the present

appeal till its realization, within a period of two months from the date of receipt of the certified copy of the judgment.

10. Registry is directed to send a copy of the judgment to the concerned Tribunal for necessary compliance.

06.12.2023
Hemant

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No