

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

FAO 4633/2004 (O&M)

Date of decision: 07/02/2023

Jagdeep Minor son of Rajesh Kumar

.....Appellant

Vs.

Rakesh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Akash Yadav, Advocate for the appellant.
Mr. Surender Saini, Advocate for respondents 1 and 2
Mr. Rajinder Arora, Advocate for respondent no.3-Ins.Co.

Nidhi Gupta, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.2.20 lacs granted by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal') vide Award dated 21.8.2004 passed in MACT Case No.66/2003 filed u/s166 of the Motor Vehicles Act,1988.

Brief facts of the case are that the learned Tribunal on appraisal of the pleadings and evidence led before it concluded that the appellant had been injured in a motor vehicular accident that took place on 24.1.2003 due to rash and negligent driving of bus bearing registration No. HR-69-0311 (hereinafter referred to as 'the offending vehicle'), being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. At the time of the accident in question, the appellant was 7 years old.

It is submitted by the learned counsel for the appellant that the compensation awarded by the learned Tribunal is abysmally low in the facts and circumstances of the case. It is further submitted that after the accident the appellant had remained hospitalized for 44 days continuously and even thereafter, he had been advised three months' bed rest. It is submitted that the learned Tribunal has totally ignored these aspects and has only granted a sum of Rs.1.33 lacs against the bills Ex.P3 to Ex. P 103 and Ex.P184 to Ex. P 190 which pertain to the medicines purchased and prescription slips and which were all proven on record. It is submitted that only Rs.20,000/- has been granted on account of special diet and pain and suffering; and further Rs.10,000/- has been granted on account of pain and mental agony, which are on lower side. Even Rs.60,000/- granted on account of future prospects is not sufficient.

In response, Ld. Counsel for the respondent Insurance Company submits that there is no error in the impugned Award and the same is just and fair in the facts and circumstances of the case.

Heard ld. Counsel for the parties.

I have gone through the record of the case. Perusal of the record shows that it is proven on record that there is no rebuttal that the appellant had remained hospitalized for a period of 44 days continuously, and was even advised bed rest of three months after that. Though bills regarding period of 44 days in hospital were not produced, however, this fact has been duly proven from the statement of Dr. GD Sharma who has stated that at the time of admission in hospital the condition of the appellant was serious and critical and that he was drowsy, pulse rate was low and he remained admitted for 44 days continuously and after that he was advised bed rest for three months also. Thus, despite these

facts proven on record, yet nothing has been awarded by the Tribunal on this count.

It has further been recorded in the impugned Award that at the time of arguments the learned Tribunal had observed the appellant in Court and had noticed that the appellant was bearing “*injuries about 8”-9” on his stomach and having number of stitches and it appears that the injuries on the person of the claimant were very serious and due to that he could not attend his classes and suffered loss of studies*”. Despite this, nothing has been granted by way of attendant charges.

Further, the appellant was only 6 to 7 years of age at the time of accident and was studying in Class I, however, due to injuries he could not attend his school and in fact, the appellant had to repeat one year of school as he was unable to attend the school.

Accordingly in my view ends of justice will be fully met in case the compensation of Rs.2.20 lacs already granted by the Tribunal, is enhanced by a lump sum of Rs.2 lacs. The respondent no. 3 is accordingly, directed to make the payment of Rs. 2 lacs in the account of the appellant within a period of 6 weeks from today, failing which the Insurance Company shall be liable to pay interest @ 9% per annum.

Ordered accordingly.

Appeal stands disposed of accordingly.

Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

07/02/2023
Joshi