

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

FAO 1874/2016 (O&M)

Date of decision: 08.02.2023

Devinder Kaur

.....Appellant

Vs.

Gursimran Singh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Mohd. Yousaf, Advocate for the appellant.
Mr. Ashok Mathur, Mr. Arjun Kapur and Mayank Mathur,
Advocates for the respondent no.2-Insurance Company.

Nidhi Gupta, J.

Present appeal has been filed by the injured/claimant seeking enhancement of compensation of Rs.30,000/- awarded by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide Award dated 2.9.2015 passed in claim petition bearing MACT No.107(17) of 7.4.2015 filed u/s 166 of the Motor Vehicles Act.

Learned Tribunal on the basis of pleadings and evidence led before it concluded that the appellant had received injuries in a motor vehicular accident that took place on 23.8.2014 due to the rash and negligent driving of Car bearing registration no. PB-11-AV-1771 (hereinafter referred to as 'the offending vehicle') by respondent no.1-owner and driver.

It is submitted by the learned counsel for the appellant that injured claimant/appellant suffered grievous injuries in the accident in question as a result of which she had remained hospitalized for a period of four days and

spent huge amount on her treatment. It is submitted that the appellant had also undergone great mental agony and torture and suffered pain, however, only a sum of Rs.30,000/- has been awarded to her under the head of pain and suffering. It is submitted that nothing has been awarded on account of special diet, or for the appellant's stay in the hospital. It is stated that even nothing has been given on account of attendant charges, and transportation, or even for future treatment. It is submitted that Tribunal ought to have granted the entire expenditure of the treatment as appellant had purchased medicines for Rs.15,000/-, and Rs.50,000/- was charged by the Doctor, however, compensation in this regard has been denied to her only on the ground that the said amounts have been reimbursed to her. It is accordingly, prayed that the impugned Award be modified and amount of compensation be enhanced to the tune of Rs.8,93,745/- along with interest @ 18% per annum from the date of filing of the claim petition till realization.

No other argument has been raised by ld. Counsel.

Heard ld. Counsel.

A perusal of the record of the case shows that as a result of negligent driving of respondent no.1, appellant has suffered multiple injuries including multiple fractures on her right leg below the knee. It is admitted fact on record that the appellant had remained hospitalized for a period of four days. However, it has been admitted by the appellant in her cross-examination that she has not suffered any permanent disability. Even no evidence to the contrary has been led by the appellant in this regard. It has further been admitted by the learned counsel for the claimant/appellant during arguments before the learned Tribunal that entire medical expenses incurred by her for her treatment have been reimbursed to her by the Department concerned. Even now, learned counsel for

the appellant is not able to deny that the appellant has been reimbursed the expenses incurred by her on her treatment.

In this view of the matter, I find no error in the impugned Award whereby the learned Tribunal has deemed it just and proper to award an amount of Rs.30,000/- as compensation on account of pain and suffering along with interest @ 9% per annum from the date of filing of the claim petition till its realization.

No doubt Chapter-12 of the Motor Vehicles Act, 1988 is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. All that has to be determined in the facts of a given case is, that the compensation accorded is "just". In my considered view, in the present case, the learned Tribunal has awarded a very "just" compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court and therefore, does not warrant the interference of this Court. In case of **KSRTC Versus Susamma Thomas 1994 Volume-II SCC 176**, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

Dismissed.

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

(Nidhi Gupta)
Judge

08.02.2023
Joshi

Whether speaking/reasoned
Whether reportable

Yes
Yes/No