

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 4130/2016(O&M)

Date of decision: 18.05.2023.

Partap Singh

.....Appellant

Vs.

Taju Khan and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA**Present:-** Mr. Rahul Noorie, Advocate for
 Mr. Abhimanyu Singh, Advocate for the appellant.

Mr. Piyush Bansal, Advocate for respondents 1 and 2

 Mr. Rajesh Lamba, Advocate for
 Mr. MK Garg, Advocate for respondent no.3.**Nidhi Gupta, J.**

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,20,545/- granted by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide Award dated 18.1.2016 passed in MACT Petition No.43 dated 14.7.2015 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

2. Brief facts of the case are that ld. Tribunal on the appraisal of facts, pleadings and evidence on record held that the injured-claimant had suffered injuries in a motor vehicular accident that took place on 27.3.2015 due to rash and negligent driving of vehicle bearing registration No. HR-55-R-9744 (hereinafter referred to as 'the offending vehicle') being driven by

respondent no.1, owned by respondent no.2 and insured by respondent no.3.

The Tribunal awarded compensation as above along with interest @9% per annum from the date of filing of the claim petition till realization. Respondent no.3-Insurance Company was directed to pay the amount of compensation and satisfy the Award. However, right was granted to respondent no.3-Insurance Company to recover the said compensation amount along with interest from respondent no.2-owner of the offending vehicle.

3. Ld. counsel or the appellant seeks enhancement of compensation on the ground that as per testimony of PW2 Dr. Subhash Jangid, Senior Consultant, Artemis Hospital, Sector 51, Gurgaon, the appellant had suffered multiple injuries including fracture as a result of which “*he will be under treatment for two years*”. It is submitted that despite this categorical testimony nothing has been granted to the appellant by way of attendant charges.

4. It is further submitted that prior to the accident in question the appellant had been working at Antrix Path Lab and getting salary of Rs.7500/- per month. It is submitted that due to accident in question appellant was unable to work for nearly six months, yet nothing has been granted to the appellant by way of loss of income. It is submitted that even the amounts awarded under the other heads are on lower side and deserve to be enhanced.

5. In response, it is submitted by the ld. counsel for the Insurance Company that as per appellant’s own case he had remained hospitalized for only six days. It is submitted that perusal of para 12-A of grounds of appeal shows that as per appellant’s own showing he was admitted on 27.3.2015 and was discharged on 2.4.2015. It is submitted that alleged employment of

appellant is not proved on record and therefore, compensation as awarded by the Tribunal is just and fair in the facts and circumstances of the case.

- 6. No other argument has been raised.
- 7. Heard ld. counsel.
- 8. Ld. Tribunal has awarded compensation as follows: -

Head	Total
Medical treatment	Rs.2,60,545/-
Physical and mental pains	Rs.20,000/-
Loss of amenities and loss of expectation of life	Rs.20,000/-
Special diet and transportation	Rs.20,000/-
Total	Rs.3,20,545/-

- 9. In the impugned Award, on the basis of testimony of PW2, Dr. Subhash Jangid, Sr. Consultant, Artemis Hospital, Sector 51, Gurgaon, following injuries were recorded to have been suffered by the appellant:-

“On dated 27.3.2015, patient Partap son of Sh. Siri Chand, was admitted in Alchemist Hospital, Gurgaon, with the alleged history of RTA with fracture anterior and posterior column right acetabulum, symphysis pubis diastasis, right sacroiliac joint fracture dislocation and abdominal injury (left renal artery thrombosis). He further deposed that patient was resuscitated in emergency and after stabilization, was operated for open reduction of fracture dislocation and internal fixation for right sacroiliac joint, anterior column of acetabulum and pubic symphysis and patient was discharged in good condition on dated 2.4.2015. He further deposed that patient is currently under regular follow up and may require surgical treatment for any complication arising out of these

injuries. The witness proved complete treatment record as Ex.P20”. (Emphasis supplied)

10. ‘Symphysis pubis diastasis’ is the excessive widening of the pubic area that typically occurs during pregnancy and postpartum. Appellant being male, it is not clear as to how he has been diagnosed with the same.

11. Moreover, none of the injuries suffered by the appellant are stated to be grievous. Admittedly, appellant has not suffered any disability. After being hospitalized for six days, as per evidence by way of affidavit of PW2, Dr. Subhash Jangid “*patient was discharged in good condition on 2.4.2015*”. No doubt, it has been deposed by PW2 Dr. Subhash Jangid in his cross-examination that the appellant will require treatment for two years, however, it is not appellant’s case that after discharge he has undergone any further treatment. Even no record or proof of such subsequent treatment has been produced by the appellant before this Court. Therefore, I find that no ground is made out to interfere with the findings of the learned Tribunal in this regard. Even the amount of compensation awarded by the learned Tribunal is just and fair in the facts and circumstances of the present case.

12. As regards income of the appellant, in his cross-examination as PW3 appellant has admitted that “*it is further to correct to suggest that I was not employed at the time of accident. Today, I have not brought any record regarding my employment*”. This Court has seen the original record wherein the testimony of the appellant is recorded as above noted. It is therefore, clear that employment of the appellant was not proved on record.

13. In view of the above facts, I find that the compensation as granted by the 1d. Tribunal is just and fair in the facts and circumstances of

the case. Interest as granted by the Tribunal @ 9% per annum is already on the higher side.

14. Dismissed.

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

18.05.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No