

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 5856/2016 (O&M)

Date of decision: 18.04.2023.

Parminder

.....Appellant

Vs.

Dhruv Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. M.S.Tewatia, Advocate for the appellant.

Nidhi Gupta, J.CM 6424-CII/2023.

Prayer in the aforesaid application is for recalling the order dated 29.3.2023 vide which the appeal was dismissed in default.

The application is supported by affidavit of the counsel for the appellant.

For the reasons stated in the application, the same is allowed, order dated 29.3.2023 is recalled and the appeal is restored to its original number.

Main Appeal.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,67,865/- awarded by Motor

Accident Claims Tribunal, Palwal, (hereinafter referred to as 'the Tribunal') vide Award dated 7.12.2015 passed in MVA Petition No.791/2014 filed u/s 166/140 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act')

Ld. Tribunal on the basis of pleadings and evidence on record held that the appellant suffered injuries in a motor vehicular accident that took place on 15.7.2014 due to the rash and negligent driving of truck bearing registration No. RJ-11-GA-2892 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. Ld. Tribunal awarded compensation as above, alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

Ld. counsel seeks enhancement of compensation on the ground that appellant has suffered multiple grievous injuries, however, nothing has been granted to the appellant towards attendant charges, special diet as well as transportation charges. Even nothing has been granted on account of loss of income despite the fact that in view of the injuries suffered by the appellant he must have remained without work for one full year. It is further submitted that the appellant had been permanently disabled and his future has become dark.

No other argument has been raised.

Heard ld. counsel.

Perusal of the impugned Award shows that ld. Tribunal has

granted compensation in the following manner:-

Sr.No.	Head	Compensation (In Rupees)
1	Medicines and medical treatment	3,18,865/-
2	Loss of earning during the period of treatment	Nil
3.	Loss of future earnings on account of permanent disability	Nil
4.	Pain and suffering loss of amenities of life	10,000/-
5	Conveyance and special diet (34000+5000)	39,000/-
6.	Total	3,67,865/-

As per evidence on record, the appellant was 17 years at the time of accident and a student of 10+2 class. It is categoric finding in para 24 of the impugned award that the petitioner has not claimed that he has suffered any permanent disability in the accident nor has he produced any document in this regard. Accordingly, the Id. Tribunal granted nothing on account of loss of earning. Even now, Id. counsel has produced nothing before this Court to show that the appellant has been rendered permanently disabled due to injuries suffered by him in the accident. In fact, on a Court query, Id. counsel is unable to even inform as to exactly what injuries have been suffered by the appellant.

In my view the learned Tribunal has awarded just and fair compensation in the facts and circumstances of the case and no case for interference is made out. 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, 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.

18/04/2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No