

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
215 **FAO-8379-2015 (O&M)**
Date of decision: 25.04.2023

Manisha

...Appellant(s)

Vs.

Ajay Pathak & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Nancy Vashistha, Advocate for
Mr. Namit Khurana, Advocate
for the appellant.

Mr. K.S. Dhanora, Advocate
for respondents No.1 & 2.

Mr. Sanjeev Kodan, Advocate
for respondent No.3.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.1,50,050/- granted by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the learned Tribunal") vide Award dated 01.07.2015 passed in MACT Case No.117/13 of 2014 filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that injured-claimant/appellant had received injuries in a motor vehicular accident that took place on 01.02.2013 at about 8 pm due to rash and negligent driving of car bearing registration No.HR-20C-0001 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent

No.3. Learned Tribunal awarded compensation as above along with interest @ 9% per annum from the date of filing the petition till realisation.

3. Learned counsel for the appellant seeks enhancement of compensation inter alia on the grounds:

a) that nothing has been granted by the learned Tribunal towards future medical expenses inasmuch as after the accident in question, the appellant had to undergo extensive physiotherapy. It is submitted that the appellant had placed on record receipts of physiotherapy but the same have not been considered by the learned Tribunal;

b) that the appellant had spent more than Rs.2,00,000/- on her treatment. However, the learned Tribunal has granted only Rs.1,05,050/- towards medical expenses;

c) that the appellant had remained hospitalised for 15-16 days yet nothing has been granted to him towards loss of income;

d) that Rs.30,000/- has been granted towards pain & suffering and loss of income; and Rs.15,000/- towards attendant charges, special diet and transportation, etc. which is on lower side.

4. No other argument is raised on behalf of the appellant.

5. I have heard learned counsel for the parties.

6. Perusal of record of the case shows that only a vague statement has been made by the appellant that she had suffered 'multiple grievous injuries' as well as 'simple injuries' on her person in

the accident in question. However, no detail has been given as to exactly what injuries were suffered by the appellant. Even at the time of arguments, learned counsel for the appellant is unable to apprise this Court as to exactly what injuries were suffered by the appellant in the accident in question. It is however, admitted by learned counsel for the appellant that she had not even suffered a fracture in the accident. Perusal of record further shows that learned Tribunal has duly reimbursed medicine bills (Exhibit P27, Exhibit P28, Exhibit P29, Exhibit P31, Exhibit P32, Exhibit P37 to Exhibit P42) amounting to Rs.1,05,032/- produced and proved on record by the appellant. Learned Tribunal did not reimburse receipts of physiotherapy (Exhibit P43 to Exhibit P45) placed on record by the appellant as *“there is no evidence on the file to prove that physiotherapy was advised to this petitioner by the treating doctor. Even the petitioner in her deposition Ex.PW2/A has not at all stated that she was advised physiotherapy by the concerned treating doctor and she spent the amount as shown in the aforementioned receipts.”* Accordingly, the learned Tribunal awarded a sum of Rs.1,05,050/- in total to the appellant as medical expenses. I find no error in the above said reasoning. Even now, learned counsel for the appellant is unable to produce any evidence to show that the appellant was advised physiotherapy by a doctor.

7. Perusal of impugned Award shows that it has been recorded by the learned Tribunal that appellant was a case of ‘multiple injuries’. However, there is no evidence whatsoever on record to show

that any of the injuries suffered by the appellant were grievous in nature as claimed. Admittedly, appellant suffered no fracture, and admittedly there is no disability. Accordingly, I find the amount of Rs.30,000/- granted by learned Tribunal towards pain & suffering and loss of income; and Rs.15,000/- towards attendant charges, special diet and transportation, etc. to be just, fair and adequate.

8. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. I find the compensation awarded to the appellants to be just and fair in the facts and circumstances of the case. No doubt Chapter-12 of the Act 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. Hon'ble Supreme Court in **State of Haryana Vs. Jasbir Kaur, (1999) 1 SCC 90** and **Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty, (2003) 7 SCC 197**, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, 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 Vs. 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.

9. In view of the above facts, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

25.04.2023
Sunena

(Nidhi Gupta)
Judge

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