

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
241 **FAO-6138-2019 (O&M)**
Date of decision: 02.05.2023

Pala Ram (through LRs)

...Appellant(s)

Vs.

Gagan Seth & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Nonish Kumar, Advocate
for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.2,94,005/- granted by Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as "the learned Tribunal") vide Award dated 09.07.2019 passed in MACT Case No.129 of 2017 filed under Section 166 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 the appellant had received injuries in a motor vehicular accident that took place on 18.10.2017 due to rash and negligent driving of Maruti Ignis car bearing temporary registration No.TEMP-HR-99-AB-22-TP-9710/HR08-X-9973 (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 accident till date of actual realisation of total amount.

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

a) that the appellant was permanently disabled in the accident in question and is unable to do his work and therefore, compensation is liable to be enhanced;

b) that even FIR No.112 of 2017 was registered in the case and appellant spent approximately Rs.5 lakh on his treatment and has also suffered considerable loss of income for which nothing has been granted by learned Tribunal;

c) that the appellant is unable to perform his daily routine work due to permanent disability of 20% which has been incorrectly taken as only 5% by the learned Tribunal.

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

5. I have heard learned counsel for the appellant.

6. Perusal of record of the case shows that as per the evidence on record, in the accident in question, the appellant had sustained several simple as well as grievous injuries on his person. As per medical bills (Exhibit P3 to Exhibit P47), the appellant had spent total amount of Rs.1,53,005/- on his treatment which was duly reimbursed by the learned Tribunal. Though, as per disability certificate (Exhibit PA), the appellant is shown to have suffered 20% disability, however, as per testimony of PW2-Dr. Aman Sood, who was examined to prove the disability certificate (Exhibit PA), the said disability suffered by the appellant is *“(only) on account of dental reason”*. Undisputedly, the

appellant had not suffered any disability with respect to the whole body, or even any limb. Accordingly, I find no error in the learned Tribunal taking disability of the appellant as only 5%.

7. In the above facts and circumstances, learned Tribunal has granted compensation in following manner:-

Head	Amount
Medical expenses	Rs.1,53,005/-
Pain & suffering (for 4 months)	Rs.50,000/-
Special diet & attendant charges (for 4 months)	Rs.40,000/-
Transportation charges	Rs.5,000/-
Loss of income (for 4 months)	Rs.36,000/- (Rs.9,000/- x 4)
5% disability (being 1/4 th of 20%)	Rs.10,000/- (5 x 2000)
Total	Rs.2,94,005/-

8. I find the above said compensation to be just and fair in the facts and circumstances of the present case.

9. Besides the above, it has also come on record that during pendency of the appeal, the appellant has expired and has now been represented by his legal heirs who are his wife and five major children. As per law laid down by this Court in **Kashi Ram Vs. State of Haryana & Others 1992 ACJ 748; Harkirat Singh VS. Inderjit Kaur & Others 200 ACJ 250;** and by Madhya Pradesh High Court in **Bhagwati Bai & Another Vs. Bablu @ Mukund & Others Law Finder Doc ID # 125166;** by Himachal Pradesh High Court in **Smt. Ram Ashari & Others Vs. HRTC & Another Law Finder Doc ID # 83233;** it has been held that where the injured-claimant had died during pendency of the claim petition, or pendency of the appeal arising therefrom, there is abatement of the claim petition. Learned counsel has failed to cite any case law to the contrary.

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

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

02.05.2023
Sunena

(Nidhi Gupta)
Judge

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