

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 6020/2019

Date of decision:18/01/2023

Dharam Singh

.....Appellant

Vs.

Tanveer Ahmad @ Sakeel and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Balraj Singh Dhull,Advocate for the appellant.

Nidhi Gupta, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.15,59,466/- granted by the Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') vide Award dated 17.7.2019, passed in MACP No.63/2017 in a claim petition filed under Section 166 of the Motor Vehicles Act,1988.

On the basis of material placed before it, the learned Tribunal concluded that the appellant was injured in a motor vehicular accident that took place on 24.7.2016 due to rash and negligent driving by respondent no.1

of Canter bearing registration No. DL-1GC-2005 (for short 'the offending vehicle').

It was claimed before the Tribunal that the claimant was earning Rs.25,000/- per month as he was driver of a Combine Tractor Mechanic and was also doing agricultural work and dairy business. However, as no evidence was led in support of the contention of the claimant, his income was taken as Rs.8070/- per month, on the basis of Minimum Wage payable at the relevant time to an unskilled labourer in the State of Haryana. Loss of income was assessed as Rs.24,210/- (Rs.8070 x 3 months). On the basis of medical bills Rs.53,232/- was awarded. The appellant was shown to have suffered permanent disability of 85% on account of fracture of right leg. Though it was stated by PW4 Dr. Vinod Kamal that disability if reckoned qua whole body will be 50% yet, as the appellant had suffered amputation of right leg and since he was labourer, the learned Tribunal very fairly assessed the functional disability of 85% . Accordingly, 85% of annual income of the appellant came to be Rs.82,314/-. Taking the age of the appellant as 32 years as depicted in the Disability Certificate Ex. PW4/A, multiplier of 16 was applied. The payable compensation was assessed to be Rs.13,17,204/-. Rs.5000/- was awarded on account of special diet; and Rs.10,000/- was awarded as transportation charges. Under the head of non-pecuniary losses, appellant was awarded Rs. 1 lac on account of pain and suffering, and Rs.50,000/- towards loss of amenities in life. Accordingly, total compensation granted was Rs.15,59,466/- along with interest @ 9% per annum.

It is submitted by the learned counsel for the appellant that only Rs.5000/- were awarded towards special diet whereas the same should

be Rs.50,000/- minimum. It is further submitted that only Rs.10,000/- have been awarded by way of transportation which should be Rs. 50,000/- to 60,000/-; and only Rs.1 lac has been awarded on account of pain and suffering which should be taken as Rs. 3 lacs, and loss of income has been given only for three months whereas the same should have been given for one year. In support reliance has been placed upon judgment of Hon'ble Supreme Court in '**Kavita v Deepak and others**', **Law Finder Doc Id# 388596** where Rs.6 lacs have been awarded as Attendant charges and approximately Rs. 3 lacs as loss of future earnings.

Heard Ld. Counsel.

I find no merit in the submissions advanced on behalf of the appellant. There is nothing brought on record to show as to why, for what reasons, and under which requirements or precedents should compensation be enhanced under the various heads as prayed for.

Further, Ld. counsel for the appellant cannot derive any benefit from the relied upon judgment as in the said case the injured though had suffered 75% permanent disability but the Medical Board in the said case had opined that there was no probability of recovery as she had lost her capacity for hearing, understanding, speaking and establishing interaction. Further in that case the appellant was being fed through a pipe and nursing care was required for daily routine work also. In the said case it has also been recorded that the appellant was "*gaining consciousness slowly but the status of senses was at the lowest level and no improvement has come in the last 2 and half years*". It was also found that probability of further improvement was negligible. Accordingly, in the said case the disability of the appellant therein was treated as 100%; whereas in the present case, admittedly, the

functional disability of the appellant has been assessed as only 50%.
Accordingly, in my view, the compensation awarded by the learned Tribunal
is just and fair in the facts and circumstances of the case.

Dismissed.

18/01/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No