

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO 2124/2018(O&M)  
Date of decision:23/03/2023

Som Dass

.....Appellant

Vs.

Datender Singh and others

.....Respondents

**CORAM        HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:-        Mr. Nishant Raj Ghanghas, Advocate for the appellant.

**Nidhi Gupta, J.**

**CM 8228-CII/2018**

Since there is delay of 171 days in filing the appeal, aforesaid application accompanied by an affidavit of the appellant has been filed seeking condonation of the said delay. The singular reason behind the delay is ascribed to paucity of funds.

However, a perusal of the paper book/ appeal reveals that on one hand it is appellant's own case in the claim petition that he was doing job in Prem Hospital, Panipat and getting salary of Rs.15,000/- per month, while on the other hand appellant has taken a contradictory stance in the present application ascribing delay to paucity of funds. Therefore, the present application does not stand scrutiny and hence, no case is made out for condoning the inordinate delay of 171 days. Present application is accordingly, dismissed.

**Main Appeal.**

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.82,608/- awarded by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') vide Award dated 3.5.2017 passed in MVA Petition NO.65/2014 u/s 166 and 140 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Ld. Tribunal on appraisal of the pleadings and evidence placed before it concluded that the appellant had been injured in a motor vehicular accident that took place on 6.12.2013 due to rash and negligent driving of School Bus bearing registration No. HR 67A-4872 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3 herein. Ld. Tribunal awarded compensation as above along with interest @ 7.5% per annum. The respondents were held jointly and severally liable to pay the compensation. .

Ld. Counsel for the appellant seeks enhancement of compensation solely on the ground that nothing has been awarded by the ld. Tribunal on account of attendant charges.

Heard ld. Counsel.

Grounds of the Appeal reveal that the only other grounds taken therein are that inadequate amount has been granted towards medical bills and ld. Tribunal ought to have realized that it is not possible to tender all the medical bills; and that amounts granted under various other heads are also on the lower side.

Perusal of the impugned Award shows that in the accident in question, appellant had suffered '*multiple injuries over his face and leg*'. As

per testimony of PW1-Dr. Rajiv Kumar, Shri Balaji Multispecialty Hospital, Panipat, upon admission, the appellant was given first aid and managed conservatively with intravenous pain killer and antibiotic. The pain and swelling on the upper right leg of the appellant was suggestive of fracture. PW6- Dr. Ajay Golyan, Prem Hospital, Panipat testified that appellant was admitted on 7.12.2013 and discharged on 14.12.2013. Appellant was operated for fracture of right leg with insertion of nail and screws. Discharge summary Ex.P42, OPD Slip Ex.P43, and OPD Receipts Ex.P44 to Ex.P50, were duly proved by the said witness.

Thus, ld. Tribunal granted compensation in the following manner. As per medical bills on record Ex. P32, appellant was granted Rs.43,508/- towards medical expenses. As the appellant had suffered fracture of both bones in right leg and had to undergo operation in which nail and screw was also fixed in his right leg, accordingly, ld. Tribunal awarded Rs.20,000/- towards pain and suffering. Appellant was awarded further sum of Rs.9100/- on account of transportation; and Rs.10,000/- towards special diet. Admittedly, no disability has been suffered by the appellant. No such evidence was led by the appellant before the Tribunal to show any disability, and nor has any such evidence been led during the hearing of this appeal, which may hold him entitled to attendant charges.

Accordingly, in the abovesaid facts and circumstances, I find the compensation as awarded by the Ld. Tribunal to be just and fair. 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, 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 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.

For the reasons stated above, this appeal is **dismissed** on the grounds of delay, as well as on merits.

**23/03/2023**  
Joshi

**(Nidhi Gupta)**  
**Judge**

**Whether speaking/reasoned**  
**Whether reportable**

**Yes**  
**Yes/No**