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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4717-2022

DATE OF ORDER: 11.01.2023

Deepanshu (Minor) through his mother

.....Appellant

Vs.

Deepak & Another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTAPresent: Mr. Mohit Rathee, Advocate
for the appellant.**Nidhi Gupta, J.**

Present appeal has been filed seeking enhancement of compensation of Rs.1,94,507/- granted by the Additional District and Sessions Judge at Rohtak (hereinafter referred to as "the learned Tribunal") in MACP Case No.208 of 2019 filed by injured-claimant/appellant under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

It is submitted by learned counsel for the appellant that the injured/appellant is an eight-year-old minor who has suffered permanent disability on account of the accident which took place on 19.10.2018 due to rash and negligent driving of respondent No.1/driver-cum-owner of car bearing registration No.HR-11F-8882 (hereinafter referred to as "the offending vehicle"). It is submitted that the appellant has suffered fracture of left leg as a result of which there is disfigurement,

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loss of prospect of marriage, and deduction in life expectancy. However, learned Tribunal has granted nothing to the appellant under the above mentioned heads. It is further submitted that nothing has been granted by way of future prospects too. No other submission is made on behalf of the learned counsel for the appellant.

I have heard learned counsel for the appellant.

A perusal of the impugned Award shows that the learned Tribunal upon appraisal of the materials before it including pleadings and evidence, came to the conclusion that the appellant was injured in the accident that took place on 19.10.2018 on account of rash and negligent driving of the offending vehicle by respondent No.1.

A Medical Board consisting of PW2 Dr. Umesh Yadav, Dr. Amit Dahiya and Dr. Shivam was constituted which assessed the disability of the appellant vide disability certificate Exhibit P10. The finding of the learned Tribunal in this regard is as below:

*“As per the disability certificate, Deepanshu has suffered 10% permanent disability on account of suffering from healing compound fracture both bone leg left side with weakness and decreased range of movement left knee with moderate pain and scar mark with slight limb lengthening. Petitioner has alleged that Deepanshu was 1st class student in Saraswati Vidya Mandir, Bharan and he was self employed. However, she has not produced any credible evidence to prove his income. Accordingly, the petitioner has failed to prove that Deepanshu was self employed at the time of accident. As such, in view of the abovesaid circumstances as well as the authority titled as **Master Ayush Vs. Reliance General Insurance Co. Ltd.***

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& Anr., II(2022) ACC, 233 (SC), Deepanshu is entitled for minimum wages. As per Haryana Minimum Wages Act for the year 2018, his income is hereby assessed as Rs.8542/- per month for the purpose of present petition”.

The above findings show that the appellant has suffered 10% permanent disability. However, the injury being a compound fracture, there is no finding that this disability will not improve over time. Further, there is no mention of any disfigurement suffered by the appellant, as also there is nothing to suggest that there is loss of prospect of marriage and/or deduction in life expectancy and future prospects of the appellant. In my considered view, the learned Tribunal has awarded compensation that is just and fair in the circumstances of the case.

Accordingly, I find that no ground is made out to interfere in the impugned Award. Present appeal therefore, stands dismissed.

11.01.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No