

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO 2600/2018(O&M)
Date of decision:13/04/2023

Jasvinder Singh

.....Appellant

Vs.

Surender and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ravinder Bangar, Advocate
 for the appellants.

Nidhi Gupta,J.

CM 9574-CII/2018

Since there is delay of 102 days in re-filing the present appeal, aforesaid application has been filed seeking condonation of said delay.

For the reasons stated in the application, same is allowed and delay is condoned.

CM -9575-CII/2018

Since there is delay of 574 days in filing the present appeal, aforesaid application has been filed seeking condonation of delay.

For the reasons stated in the application, same is allowed and delay of 574 days in filing present Appeal is condoned.

CM -9576-CII/2018

Prayer in the present application is for placing on record

Annexures A-2 to Annexure-11.

For the reasons mentioned in the application, same is allowed. Annexures A-2 to A-11, are taken on record subject to all just exceptions.

Main Appeal.

1. Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,07,671/- granted by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal') vide Award dated 08.10.2015 in MACT Case No.17/2015 u/s 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 the pleadings and evidence adduced before it concluded that the appellant/injured-claimant had received injuries in a motor vehicular accident that took place on 06.01.2014 due to rash and negligent driving of Car bearing registration No.HR-31H-2021 (hereinafter referred to as 'the offending vehicle'), being driven by respondent No.1, owned by respondent No.2 herein and insured by respondent No.3 herein.

3. Learned Tribunal awarded compensation as above along with interest @ 9% per annum from the date of filing of the claim petition till realization. Respondents were held jointly and severally liable to pay the compensation.

4. Learned counsel for the appellant seeks enhancement of compensation on the ground that the appellant had suffered 46.6% permanent disability. Learned counsel submits that 46.6% disability of the appellant is evident from disability certificate Annexure A-1. It is submitted

that accordingly, learned Tribunal is in error in granting meager compensation of only Rs.3,07,671/-.

It is further submitted that the appellant was only 22 years of age at time of accident and was a student of B.Tech final year and had a great future ahead of him. However, the learned Tribunal has granted nothing by way of actual loss of income.

5. No other argument has been raised by the counsel.
6. I have heard learned Counsel.
7. A perusal of the record of the case shows that it was the pleaded case of the appellant before the learned Tribunal that in the accident in question, the appellant had suffered an injury on his forehead as a result of which, he had remained hospitalized from 17.01.2014 to 03.02.2014 in two hospitals. It was submitted that the appellant had spent Rs.15 lacs on his treatment and had been rendered permanently disabled as a result of the injury suffered. Even DDR No.24-A dated 07.01.2014 was placed on record.
8. However, it has been recorded in the impugned Award that appellant has admitted before the learned Tribunal that though *‘he suffered disability of more than 40%, but the claimant could not obtain the disability certificate from the hospital’*. Even no doctor was examined before the ld. Tribunal to opine on, or prove the claimed disability of the appellant. Accordingly, as it remained unproved before the ld. Tribunal that appellant had suffered any disability in the accident in question, learned Tribunal awarded compensation in the following manner:-

For hospitalization:	Rs.52,000/-
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For medicines:	Rs.2,05,671/-
For conveyance:	Rs.10,000/-
For attendant and Extra diet:	Rs.20,000/-
For pain and suffering	Rs.20,000/-
Total:	Rs.3,07,671/-

9. As regards the disability certificate Annexure A-1 produced by the appellant before this Court, the same is dated 02.11.2016. Admittedly, the accident is of 06.01.2014, the claim petition was filed on 06.05.2014, and the Award is of 08.10.2015. Clearly, no credence or weightage can be given to the said Disability Certificate as neither has it been proved in accordance with law, and most of all it has been procured almost 03 years after the accident in question. Moreover, even now, ld. Counsel has been unable to throw light on exactly what is the disability purported to have been suffered by the appellant.

10. Accordingly, I find the compensation as awarded by the ld. Tribunal to be just and fair in the facts and circumstances of the case.

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

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

13/04/2023
ps-I

(Nidhi Gupta)
Judge

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