

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4122-2018 (O&M)

Date of decision: 29.05.2023

Harpal Singh

...Appellant(s)

Vs.

Mohan Lal @ Mahna & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Ramandeep Kaur, Advocate for
Ms. Himani Kapila, Advocate
for the appellant.

NIDHI GUPTA, J.

CM-14468-CII-2018

This is an application under Section 5 of Limitation Act,
1963 seeking condonation of delay of 103 days in filing the appeal.

After going through the contents of the application, the
same is allowed subject to all just exceptions.

MAIN APPEAL

Present appeal has been filed by the injured-claimant
seeking enhancement of compensation of Rs.8,00,000/- granted by
Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as
“the learned Tribunal”) vide Award dated 10.10.2017 passed in MACT
Case No.70 of 2015 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 been injured in a motor vehicular accident that took place on 10.03.2015 due to rash and negligent driving of Safari bearing registration No.JK-10-3915 (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 filing the claim petition till realisation. Learned Tribunal held that the amount of compensation was to be paid by respondent No.3.

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

a) that very meagre compensation has been awarded by the learned Tribunal and the same deserves to be modified and enhanced to Rs.20,00,000/-;

b) that the appellant was 20-year-old at the time of accident and was running a milk dairy from where he was earning Rs.30,000/- per month;

c) that the appellant had remained hospitalised for 38 days. However, learned Tribunal has awarded only Rs.500/- per day/Rs.19,000/- for pain & suffering and for special diet.

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

5. I have heard learned counsel for the appellant.

6. Perusal of impugned Award reveals that though it was originally pleaded by the appellant that he was driving the motorcycle himself, however, he subsequently amended his claim petition and now pleaded that he was pillion-riding the motorcycle which was being driven by Gurbinder Singh-CW2. However, learned Tribunal found that upon a consideration of the facts as a whole, there was no reason to doubt the version now put forth by the appellant i.e. the appellant was pillion rider on the motorcycle.

7. Appellant had placed on record medical bills (Exhibit C2 to Exhibit C161) for a sum of Rs.7,80,000/-. It has further come on record that the appellant was a student at the time of accident and therefore, did not have any independent income. Accordingly, learned Tribunal held that the appellant was not entitled to any loss of income.

8. Further, it is not the case of the appellant that he had suffered any disability in the accident in question, nor any such disability certificate has been produced by him either before the learned Tribunal, or before this Court. However, as the appellant remained hospitalised from 12.03.2015 to 18.04.2015 i.e. for a period of 38 days, learned Tribunal awarded a sum of Rs.500/- per day towards pain & suffering and special diet, coming to a total of Rs.20,000/-. I find the same to be just and fair in the facts and circumstances of the case.

9. Further, though the date of accident was 10.03.2015, appellant had filed claim petition only on 06.11.2015. Nonetheless, learned Tribunal has granted interest @ 9% per annum from the date of

filing the claim petition i.e. 06.11.2015 till realisation. Accordingly, learned Tribunal awarded a total sum of Rs.8,00,000/- as compensation i.e. Rs.7,80,000/- qua the medical bills, and Rs.20,000/- towards pain & suffering and special diet.

10. In my view, the above facts amply demonstrate that no case is made out that merits interference with the impugned Award. No doubt Chapter-12 of the Act 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. Hon'ble Supreme Court in **State of Haryana Vs. Jasbir Kaur, (1999) 1 SCC 90** and **Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty, (2003) 7 SCC 197**, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered opinion, in the present case, the learned Tribunal has taken a very fair, just and rational view, 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 Vs. 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.

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.

29.05.2023
Sunena

(Nidhi Gupta)
Judge

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