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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on : 17.08.2023

Deva Nand

. . . Appellant(s)

Versus

Anil and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Nidhi Sharma, Advocate
for the appellant(s).

Mr. Namit Sharma, Advocate
for respondent No.1.

Mr. Rajesh Bansal, Advocate
for respondent No.2.

Mr. D.K. Prajapati, Advocate
for respondent No.3 – Insurance Company.

SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the petitioner/claimant/injured – Deva Nand (hereinafter referred as ‘claimant’) against the MACT award dated 28.11.2017 in MACT Case No. 12 of 2017 dated 18.05.2015/28.04.2017 passed by Ld. Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as ‘Ld. Tribunal’) for seeking enhancement of the amount of compensation, on account of his suffering of 5% permanent disability in a motor vehicular accident.

2. Briefly stated facts of the case are that on 07.05.2014, at about 01:00 PM, when the claimant was going out of the factory where he worked for taking lunch to a tea shop, after crossing the road, a vehicle (TATA Magic) bearing no. HR-39-C-5314 driven in a rash and negligent manner

directly hit him. Due to the said accident, he sustained multiple serious injuries on his right arm and right chest. For the said accident, a FIR bearing no. 427 dated 08.05.2014 under Sections 279/337/338 of the IPC was registered at Police Station Chandni Bagh, Panipat.

3. Claimant filed a claim petition under Section 166 The Motor Vehicles Act, 1988 for seeking compensation before the Ld. Tribunal pleading that vehicle (TATA Magic) bearing no. HR-39-C-5314 was being driven in a rash and negligent manner by Respondent No. 1 – Anil.

4. After going through the depositions of the witnesses, oral and documentary evidence on record and the arguments raised by both the counsel, Ld. Tribunal decided that the vehicle was being driven in a rash and negligent manner, claimant suffered 5% permanent disability in the said accident and thus, all the respondents i.e. respondent No.1 being driver of the offending truck, Respondent No. 2 being owner of the offending truck and respondent No.3 being insurer of the offending vehicle **were held jointly and severally liable to pay the amount of compensation.**

5. Although, the claimant claimed an amount of compensation to the tune of Rs. 3,00,000/-, however, after appreciating all the evidence, deposition of all the witnesses and arguments of both the sides, Ld. Tribunal awarded a total amount of compensation as Rs. 95,131/-.

6. For the sake of convenience, the compensation awarded by the learned Tribunal is presented in a tabular form here below: -

Head	Compensation awarded by learned Tribunal (in Rs.)
Medical and treatment charges	Rs. 40,131/-
5% disability	Rs. 10,000/-
Costs of transportation, attendant, special diet and loss	Rs. 30,000/-

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of income	
Pain and sufferings	Rs. 15,000/-
Total compensation	Rs. 95,131/-

7. Ld. Counsel for the appellant - Claimant argues that the accident was caused due to the negligence of the driver of the offending vehicle when the claimant was crossing the road due to which he suffered serious and multiple injuries and consequently, resulted into 5% permanent disability to the claimant. He further argues that the amount of compensation awarded to the claimant by the Ld. Tribunal is on the very lower side, and thus, requires to be enhanced in consonance of the law laid down by the Apex court in catena of judgements rendered by Hon’ble Apex Court in ***Kajal v. Jagdish Chand and others, 2020(4) SCC 413 : Law Finder Doc ID#1679623, National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 : Law Finder Doc ID #918174*** and ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77:Law Finder Doc ID #188882***.

8. On the other hand, Ld. Counsel for Respondent No. 3 – Insurance Company submits that the Ld. Tribunal has rightly determined the amount of compensation to be awarded to the claimant. Thus, there is no error in the award rendered by Ld. Tribunal and no need to interfere in the same.

9. I have gone through the impugned award and the calculations mentioned therein, heard the learned counsel for the parties and has perused the authorities cited.

10. In consonance with the settled law of proposition as rendered by the Hon’ble Apex Court and applied by this Court in catena of judgments

and keeping in view the aims & objects of the beneficial legislation by applying the principle of reasonable discretion, this Court deems it appropriate to enhance the amount of compensation as awarded to the claimant by the Ld. Tribunal.

Certainly, claimant has suffered 5% permanent disability and the accident was caused due to the rash and negligent driving of the driver of the offending vehicle. For the sake of convenience, a comparative table of the compensation; as awarded by the Ld. Tribunal and now considered to be appropriate amount of compensation by this Court, is produced here below:

Head	Compensation awarded by learned Tribunal (in Rs.)	Compensation awarded by this Court (in Rs.)
Medical and treatment charges	Rs. 40,131/-	Rs.50,000/-
5% disability	Rs. 10,000/-	Rs. 10,000/-
Costs of transportation, attendant, special diet and loss of income	Rs. 30,000/-	Rs. 50,000/-
Pain and sufferings	Rs. 15,000/-	Rs. 50,000/-
Total compensation	Rs. 95,131/-	Rs. 1,60,000/-

11. At this stage, Ld. Counsel for the appellant – Claimant argues that the rate of interest of 7.5% per annum as awarded by the Ld. Tribunal should be enhanced to 12% per annum. On the other hand, Ld. Counsel for the appellant – Insurance company submits that the rate of interest as awarded by Ld. Tribunal i.e. 7.5% per annum is worth to be maintained keeping in view the precedents of the Hon’ble Apex Court and as applied by

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this Court.

This Court deems it appropriate to grant amount of compensation at the rate of 7.5% per annum in consonance with the established precedents.

12. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total amount of compensation payable to the appellant (claimant) is **Rs. 1,60,000/-** along with interest at 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the appellant (petitioner/claimant).

13. Needless to mention that out of the total payable compensation amount, already paid amount (if any), in compliance to the impugned award would be adjusted.

14. Thus, the appeal filed by claimant/injured is allowed by partly modifying the award with the terms indicated here-above.

(SANJAY VASHISTH)
JUDGE

August 17, 2023

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*