

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 8417/2017

Date of decision:06/02/2023

Moti Lal

.....Appellant

Vs.

Sham Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sandeep Arora, Advocate for the appellant.

Nidhi Gupta, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.15.42 lacs awarded by the Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide Award dated 11.7.2017 passed in in claim petition bearing MACP no. 1234/2016 filed u/s 166 of the Motor Vehicles Act,1988.

Ld. Tribunal upon appraisal of the pleadings and evidence presented before it concluded that the appellant was entitled to compensation as awarded above, on account of injuries suffered by him in a motor vehicular accident that took place on 15.2.2016 due to rash and negligent driving of car

bearing registration No. PB-08-CP-6168 by respondent no.1, owned by respondent no.2, and insured by respondent no.3. All the respondents were jointly and severally held liable to pay the compensation.

The only ground on which the learned counsel for the appellant is seeking enhancement is that multiplier of 13 has been applied whereas multiplier of 16 ought to have been applied. It is further submitted by the learned counsel for the appellant that the appellant has suffered 70% permanent disability and therefore, compensation ought to be enhanced.

No other argument has been raised.

Perusal of the record of the case shows that the age of the injured appellant was proven to be 46 years at the time of accident on the basis of his Aadhar Card Ex.P169. Accordingly, I find no error in applying multiplier of 13 which is in conformity with judgment of Hon'ble Supreme Court in **Sarla Verma v Delhi Transport Corporation and Anr. 2009(3) RCR 77(SC)**.

A further perusal of the records shows that as per disability certificate Ex. R165, the injured appellant is shown to have suffered permanent disability to the extent of 70%, however, admittedly the said disability certificate was not proved in accordance with law as the concerned Doctor was not examined by the claimant before the Tribunal. In view of this fact, learned Tribunal relied upon Schedule I of the Workmen's Compensation Act, 1923 as per which, loss of percentage of earning capacity due to amputation of one foot is taken 30%. I find no error in this reasoning or assessment made by the Id. Tribunal. On the contrary, in view of the fact that the disability certificate of the appellant remained unproven, I find the approach of the Id. Tribunal to be in accordance with the true letter and spirit of the beneficial legislation that the Motor Vehicle Act is. Therefore, it is on

this basis that the total annual compensation due to loss of earning capacity of the injured-claimant has been assessed as $Rs.9600 \times 30 / 100 \times 12 = 34,560/-$; and after applying the multiplier of 13 the total compensation comes to $Rs.34560 \times 13 = Rs.4,49,280/-$ rounded off to Rs.4.50 lacs.

It is undisputed that the injured appellant has produced medical bills to the tune of Rs.10,92,000/- which were proved by the claimant and remained unrebutted by the respondents. Thus, the total compensation works out to Rs.15.42 lacs

In my view the learned Tribunal has awarded just and fair compensation in the facts and circumstances of the case and no case for interference is made out. 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.

Dismissed.

06/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No