

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 6248/2014(O&M)

Date of decision: 25.05.2023.

Baljinder Singh

.....Appellant

Vs.

Rakesh Gupta and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Brijesh, Advocate for
 Mr. Rajesh Gaur, Advocate for the appellant.

 Mr. Suvir Dewan, Advocate for respondent no.3-
 Insurance Company.

Nidhi Gupta, J.**CM 16993-CII/2014**

Since there is delay of 896 days in refiling the appeal,
aforesaid application has been filed seeking condonation of said delay.

2. The reasons stated in the application, do not make sufficient
ground to condone the said delay of more than two years in refiling the appeal.
Hence the application is dismissed.

CM 16995-CII/2014

3. Application allowed. Annexures A-1 to A-7 are taken on
record.

Main Appeal.

4. Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs. 47,000/- granted by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide Award dated 13.6.2011 passed in MACT Case No. 26/MACT of 2010 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act').

5. Ld. Tribunal on the appraisal of facts, pleadings and evidence on record held that claimant had been injured in a motor vehicular accident that took place on 19.2.2009 due to rash and negligent driving of Wagon R Car bearing registration No. HR-02-Q-5014 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. The Tribunal awarded compensation as above along with interest @ 7.5% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

6. Ld. counsel for the appellant seeks enhancement of compensation on the ground that Id. Tribunal has failed to consider that the appellant was contractor with Naraingarh Sugar Mills Limited, and was also doing the agriculture work and therefore, earning Rs.25,000/- per month. It is submitted that the appellant had even placed and proved on record ITR Ex.P41 which indicates that the appellant had paid Rs.7560/- as income tax. It is submitted that despite that Id. Tribunal has assessed income of the appellant as only Rs.3500/- per month.

7. It is further submitted that Id. Tribunal has failed to consider that the appellant had suffered multiple grievous injuries in the accident and appellant had even received head injury as a result of which he had to take treatment from various hospitals. It is submitted that due to head injury appellant remained unconscious for 22 days. Although, appellant has not got the disability certificate, but due to accident in question, the life of appellant has become miserable and therefore, suitable compensation ought to have been granted. It is submitted that the amounts awarded under the various heads are on lower side and deserve to be enhanced.

8. No other argument has been raised.

9. Heard Id. counsel.

10. Perusal of the record of the case shows that at the time of accident in question the appellant was 32 years of age. Upon consideration of the medical record and testimony of PW2 Dr. Tarsem Monga, Id. Tribunal had found that *“no fracture or disability has been proved in accident case”*. Despite that Id. Tribunal has awarded a sum of Rs.15,000/- towards pain and suffering. Id. Tribunal has further recorded that *“since no evidence has been produced that the petitioner has suffered any disability in the instant case, he is not entitled to any compensation..... for damages to compensate for the loss of amenities of life and damages for the loss of expectation of life.”* Even now Id. counsel for the appellant is unable to demonstrate from the record that the appellant had suffered a fracture, let alone, any disability in the accident.

11. A perusal of the medical record produced by the appellant by way of Annexures A1 to A7 reveal that Annexures A2 to A7 pertain to treatment undergone by the appellant for urinary disorder in the year 2011.

Therefore, the same has no bearing on the case in question. Annexure A-1 is only a receipt of Rs.2500/- issued by the Monga Hospital and Stone Centre by Dr. Tarsem Monga. Learned Counsel has been unable to explain the relevance of the said document with the present case.

12. Moreover, perusal of the impugned Award shows that Id. Tribunal has reimbursed a sum of Rs.22901/- towards medical bills Ex.P3 to P40. Though appellant had not suffered permanent disability yet, Id. Tribunal has granted Rs.15,000/- towards pain and sufferings; and Rs.1500/- towards loss of expectancy of life and inconvenience, hardship, discomfort and disappointment. Though appellant had not proved any expenses spent on transportation charges, diet money or attendant charges, yet Id. Tribunal has granted Rs.2000/- under these heads; and Rs. 3500/- for loss of income though appellant had failed to prove his avowed avocation. Hence total compensation comes to Rs.46,401/- which has been rounded off to Rs.47,000/-,

13. For the reasons stated above, finding no merit in this appeal the same is hereby **dismissed** on merits, as well as on grounds of delay.

14. Application(s), if any, stand disposed of.

25.05.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes/No