

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**FAO No.604-2019 (O&M)
Date of decision: 31.01.2023**

Rakesh Kumar

...Appellant(s)

Vs.

Jatinder Pal & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Jyoti Chahal, Advocate for
Mr. R.S. Budhwar, Advocate for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed seeking enhancement of compensation of Rs.20,000/- awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as "the learned Tribunal") vide Award dated 01.11.2018 passed in MACP Case No.621 of 2017.

Learned Tribunal on the basis of pleadings and evidence placed before it concluded that appellant-Rakesh Kumar had suffered injuries in a motor vehicular accident that took place on 08.12.2017 due to rash and negligent driving of Swift car bearing registration No.HR-31F-8784 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1/driver and owner and insured by respondent No.2 herein. Learned Tribunal awarded compensation as noted above along with interest @ 7.5% per annum from the date of filing the petition till its actual realization. Respondents were held jointly and severally liable to pay the aforesaid compensation amount.

It is submitted by learned counsel for the appellant that appellant had suffered serious and grievous injuries on various parts of his body and spent Rs.2,50,000/- on his treatment and he had remained hospitalized for almost two months. However, nothing has been granted to him by way of future medical expenses or under the heads of special diet, pain and suffering, etc. It is accordingly prayed that meager compensation of Rs.20,000/- awarded to the appellant may be enhanced.

Heard.

Perusal of impugned Award shows that it has been found that the appellant had remained hospitalized as indoor patient in Kalpana Chawla Medical College, Karnal from 09.12.2017 to 11.12.2017 i.e. for only 3 days. This fact is also borne out from the testimony of PW1 Dr. Mohit Jindal. No doubt, as per Exhibit P58, it has been found that the appellant had remained admitted in Anand Orthopadic Centre, Kurukshetra from 08.10.2017 to 09.12.2017. However, this period of hospitalization is prior to the accident and cannot be considered towards grant of compensation.

Moreover, it has been found by learned Tribunal that the appellant has led no evidence whatsoever in support of his claim that he had spent Rs.2,50,000/- on his treatment.

As per the bills Exhibit P57 to Exhibit P62, which were produced by the appellant, which showed that he had spent Rs.12,170/-, the learned Tribunal had rounded it off and granted Rs.12,200/- on account of expenses on treatment. Additionally, Rs.5,000/- towards pain and suffering and Rs.2,800/- were also awarded towards special diet. Moreover,

there is a categorical finding of the learned Tribunal that the appellant had not suffered any disability. Even now, learned counsel for the appellant is unable to show if the appellant had suffered any permanent disability or not. Moreover, it is clear that the appellant had remained hospitalized for a period of 3 days only. Accordingly, I find the impugned Award to be just and fair in the facts and circumstances of the case.

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.

In view of the above facts, I find no merit in the present appeal and the same is hereby dismissed.

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

31.01.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No