

**143 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-1802-1993

Date of decision : 08.04.2024

Jagdish**.....Appellant****versus****Dholu Ram and others****.... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Deep Inder S. Walia, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the Insurance Company.

*********RAJESH BHARDWAJ, J.**

The claimant-appellant has approached this Court by way of filing the present appeal for enhancement of the compensation from Rs.18,000/- awarded vide order dated 11.08.1993 by the learned Motor Accident Claims Tribunal, Hisar.

It has been contended by counsel for the appellant that the appellant was 19 years old boy at the time of the accident in which he suffered serious injury on account of the rash and negligent driving of respondent No.1, the driver of the truck No.HRT-4798. It has been contended that the appellant suffered the injury and remained hospitalized and he spent considerable amount on treatment. He submits that the FIR was registered promptly and thus, the accident was also proved. The appellant suffered fracture in the accident and thus, he filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 before the learned MACT, Hisar for the grant of compensation to the tune of Rs.3,00,000/-. He submits that the injury suffered due to the rash and negligent driving of the truck driver i.e. respondent No.1 was duly proved

before the learned Tribunal. However, the compensation only to the tune of Rs.18,000/- was awarded which is too meagre in the facts and circumstances of the case. Thus, the same deserves to be enhanced.

Learned counsel for the respondent-Insurance Company however, has opposed the submissions made by counsel for the appellant. He has submitted that the respondent-company had taken the objection regarding the validity of the license of the truck driver as well which was not duly considered by the learned MACT. He has submitted that the appellant failed to produce any reliable evidence regarding the disability. Thus, the claim Award of Rs.18,000/- does not deserve to be enhanced.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the accident took place on 02.01.1991 when the bus boarded by the claimant was hit by the offending Truck bearing No.HRT-4798 driven by respondent No.1. The claimant fell down from the bus and he received grievous injuries. Learned Tribunal framed the issues for the adjudication of the claim petition. The issue pertaining to the rash and negligent driving by respondent No1 was decided against him and thus, the same was duly established. The injuries suffered by the claimant were also found to have been corroborated by PW-2 Dr. K.S. Rathore who medico legally examined him. However, learned Tribunal found no reliable evidence to establish whether the disability was permanent or temporary one. However, the pain and agony suffered by the appellant was duly proved. The respondent No.1 was found vicariously liable for causing the same. Though the objection was taken by the Insurance Company regarding the valid licence of respondent No.1 however, respondent No.1 placed on record the certificate Ex. R1 and photocopy of the driving licence Ex.R2 on the basis of which it was found

that he was having a valid driving licence and thus, the objection taken by the Company was found to be without any force. Hence, the compensation was awarded only to the tune of Rs.18,000/-. There is no denial of the fact that appellant-claimant was a young boy of 19 years of age who suffered fracture in the accident and was examined by the Dr.K.S. Rathore.

In the facts and circumstances of the case, this Court finds that the compensation awarded is too meagre and thus, is of the opinion that the compensation Awarded deserves to be enhanced from Rs.18,000/- to Rs.50,000/-. Ordered accordingly. The respondent-Company would pay the enhanced amount of Rs.32,000/- within one month from the date of receipt of certified copy of this order. If the same is not paid within the stipulated time then the enhanced amount would be paid with an interest @ 9% P.A. from the date of order till the date of realization.

Appeal is allowed in above-mentioned terms.

08.04.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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