**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****206****FAO-2189-2001 (O&M)****Date of decision: 24.03.2025****Ikbal @ Ejad Hussain****...Appellant(s)****Vs.****Man Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- None for the appellant.

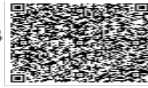
Mr. Vinod Chaudhri, Advocate
for respondent No.5-Insurance Co.

NIDHI GUPTA, J.

The injured-claimant is in appeal before this Court seeking enhancement of compensation of Rs.45,000/- granted by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as "the learned Tribunal") vide Award dated 05.03.2001 passed in claim petition No. 67 dated 05.04.2000 filed by the claimant under Sections 140 and 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

2. At the very outset, it may be pointed out that the present appeal is of the year 2001. None has appeared on behalf of the appellant for the last 2 dates of hearing i.e. 06.11.2023 and 20.11.2023. Even today none appeared on behalf of the appellant even in second round. As such, the matter, being of such old vintage, is being heard and decided in the absence of learned counsel for the appellant.

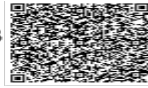
3. Learned counsel for the insurance company/respondent No. 5 herein, submits that no ground for enhancement of compensation



awarded to the appellant is made out as in the accident in question, the appellant had suffered disability of only 15% qua the limb. As such, his disability qua the whole body would be only 7% to 8%. It is further pointed out that the appellant had failed to lead any evidence in respect of any expenses incurred by him on his treatment. Only general assertions had been made by the appellant before the learned Tribunal. It is stated that accordingly, no ground is made out to interfere in the impugned Award and prayed that the present appeal be dismissed.

4. Heard.

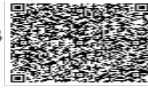
5. Perusal of the record of the case shows that it was the pleaded case of the injured-claimant in the Claim Petition before the learned Tribunal, that on 26.12.1999 when he was going from Punhana to village Singar on his cycle, a tractor bearing registration No. HR-30-A-0463 (hereinafter referred to as offending vehicle) being driven by respondent No. 1 in a rash and negligent manner, had hit the appellant from behind, as a result of which he fell down and suffered grievous injuries. The offending vehicle was owned by respondent No.2 and insured by respondent No.5. Learned Tribunal took note of the fact that the FIR (Ex.P4) was lodged in the matter by the appellant on the very same day at 2:15 a.m. in which as per report under Section 173 Cr.P.C. (Ex.P2), challan had been filed against respondent No.1. As such, learned Tribunal concluded that the appellant had suffered injuries in the accident in question.



6. As regards the nature of injuries suffered by the appellant, the record reveals that it was the pleaded case of the appellant is that he had received injuries/6 fractures on his ribs and leg; and that he remained admitted in hospital for 7 days and received treatment for 9 months. Even then, he was not fully cured. It was further pleaded by the appellant that he was a rickshaw puller and was earning Rs. 125/- per day, but now he could not ply rickshaw.

7. Perusal of the Grounds of Appeal filed by the appellant in the present case shows that enhancement of compensation is sought on the ground that it had been opined by Dr. Akhlaq Ahmad PW1, who was member of the Medical Board that had examined the appellant, that the appellant will face difficulty while plying rickshaw. It has further been pleaded in the Grounds of Appeal that an amount of Rs.7,000/- granted for expenses incurred by the appellant on his treatment, is not sufficient and the claim of the appellant for Rs.60,000/- towards expenses has been wrongly rejected as the cash memos in respect of the said expenses have not been produced. It has been averred that this is common knowledge that the bills etc. were not kept intact by the relatives at the time of treatment of the appellant as the prime consideration at that time was getting the best treatment for the injured.

8. However, perusal of the record of the case shows that as per the MLR (Ex.P5), it was recorded that the appellant had suffered 5 injuries on his person wherein injuries No. 1, 2 and 6 were kept under observation and remaining 3 injuries were simple in nature. The record further shows



that no treating doctor was examined by the appellant before the learned Tribunal. Even opinion of Dr. Akhlaq Ahmad PW1, who was member of the Medical Board which had examined and assessed the disability of the appellant was that: *“After examination of the photocopy of discharge summary issued from Safdarjang Hospital, Delhi with X-Ray and physical examination, we opined that there was moderate restriction of movements at the right ankle. The assessed disability was 15%. Ex. P-1 is the original disability certificate which bears my signature as well as of other members of the Board. It is permanent disability. He will face difficulty while plying Rickshaw.”*

9. Thus, it was admitted by PW1 Dr. Akhlaq Ahmed that the disability is particularly qua limb and not qua the whole body. Even there is no evidence to show that on account of the said disability, the appellant is unable to ply rickshaw. The appellant had also not placed on record any evidence to show that he had lost his earning capacity. In view of the above facts, the learned Tribunal had rejected the bald statement of the appellant without substantiating evidence on record.

10. As already noted above, it was the claim of the appellant that he had spent Rs.60,000/- on his treatment, however no bills to this effect were produced by him before the learned Tribunal; and only one cash memo mark-A was produced by the appellant in respect of the expenses incurred on conveyance for Rs.1102.50. Even no reasons were given as to why the original bills were not produced by the appellant. Yet, keeping in mind the fact that the appellant would have incurred some expenses on

his treatment, the learned Tribunal had awarded consolidated compensation of Rs. 45,000/- towards special damages and general damages such as medical expenses, special diet, transportation etc. to the appellant. Accordingly, the compensation was granted in the following manner: -

General damages	Rs.38,000/-
Special damages	Rs.7,000/-
Total	Rs.45,000/-

11. From the above facts, it is clear that more than a just and fair compensation has been awarded to the claimant. As such, I find no case is made out that merits interference with the impugned Award. The Hon’ble Supreme Court in ‘**State of Haryana Vs. Jasbir Kaur**’ **Law Finder Doc ID # 64043** and ‘**Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty**’, **(2003) 7 SCC 197**, has held that the amount of compensation should be just and reasonable, it should neither be a windfall or a bonanza nor a source of profit but at the same time it should not be a pittance.

12. Learned counsel for the appellant is unable to dispute or controvert the above said facts and findings, as also the above noted legal position.

13. Accordingly, the present appeal is hereby **dismissed**.

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

24.03.2025
Divyanshi

(NIDHI GUPTA)
JUDGE