

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****210****FAO-262-2010 (O&M)****Date of decision: 18.02.2025****Balwan****...Appellant(s)****Vs.****Manoj and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Dr. Anand Bishnoi, Advocate for the appellant.

NIDHI GUPTA, J.

The injured-claimant has filed the present appeal seeking enhancement of compensation of Rs.42,920/- granted by the learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as "the learned Tribunal") vide Award dated 30.05.2009 passed in claim petition No. 61 dated 21.09.2007 filed by the appellant under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced by the parties, concluded that the injured-claimant had suffered injuries on his leg in an accident that took place on 06.08.2007 while pillion riding on Activa bearing registration No. HR-20L-2291 (hereinafter referred to as "the offending vehicle") being driven and owned by respondent No.1 and insured by respondent No.2.

3. Learned counsel for the appellant seeks enhancement of compensation on the ground that at the time of accident, the appellant was only 17 years of age. It is contended that learned Tribunal had failed



to appreciate that the accident had reduced the capacity of the appellant to earn. Due to the accident, he is unable to lead normal life. The appellant has suffered permanent disability. The appellant has further incurred expenditure of more than Rs.2 lacs on his treatment. However, these facts have not been appreciated by the learned Tribunal in granting the impugned compensation. It is accordingly prayed that the appeal be allowed; and the compensation amount be enhanced.

4. No other argument is raised on behalf of the appellant.

5. I have heard learned counsel for the appellant and perused the case file in great detail.

6. The facts as pleaded in the claim petition are that on 06.08.2007 at about 12:45 p.m., the appellant along with respondent No.1 were going towards District Court Hisar on the offending vehicle which was being driven by respondent No.1. When they read near Bijli Ghar on Rajgarh Road, Hisar, suddenly a cow came in front of the Activa due to which both of them fell down and the appellant received injuries on his right leg. Even DDR 13 dated 9.8.2007 Ex.P-7 was recorded by Head Constable Suresh Kumar. Under Section 163-A of the Act, the appellant was only required to prove occurrence of the accident and not any negligence on part of the Driver. From the above facts it was proven that the accident had taken place on account of usage of the offending vehicle, which was being driven by respondent no.1. As such, the appellant was held entitled to compensation.



7. As regards, the injuries suffered by the appellant, it is the case of the appellant that he remained admitted in Sapra Hospital Hisar from 06.08.2007 to 12.08.2007. The appellant has also deposed that due to injury, his right leg is deformed and shortened. As such, he has become permanently disabled person. As per him, he has spent more than Rs. 2 lacs on his treatment.

8. The appellant had produced PW1 Dr. Tarun Sapra who deposed that on 06.08.2007, the appellant was admitted in his hospital as he had suffered the fracture of both bones of right leg. He deposed that he was discharged on 12.08.2007 and also proved bills Ex.P1 to Ex.P4. As such, appellant was awarded sum of Rs.15,290/- as medical expenditure. The appellant had also placed on record the disability certificate Ex.PX to prove his permanent disability to the extent of 6%. So the appellant was further awarded an amount of Rs.12,000/- towards permanent disability. As the appellant remained in hospital for about a week, he was also granted amount for pain and suffering, conveyance charges and special diet etc. In this manner, appellant was awarded total sum of Rs.42,920/- as compensation alongwith interest @ 9% per annum.

9. Further, as the insurance policy did not cover the risk of death of or bodily injury to gratuitous passengers, hence, respondent No.2/ insurance company was held not liable to pay compensation for injuries suffered by the appellant, and respondent No.1 being driver and owner was held liable to pay.



10. The appellant has failed to demonstrate before this Court, as to how his earning capacity has reduced. In fact, appellant has failed to even disclose the avocation pursued by him. The appellant has also failed to show as to how he is unable to lead a normal life; or even that he had spent an amount of ₹2 lakhs on his treatment. In any event, the said contention of the appellant is liable to be rejected as, as per Second Schedule of the Act, under section 163 – A, the medical bills/voucher not exceeding, and one time payment of ₹15,000/- only can be granted.

11. From the above facts, it is clear that a very 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. Thus, 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.



- 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.

18.02.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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