

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****220****FAO-6731-2016 (O&M)
Date of decision: 02.04.2025****Jatin @ Jatinder****...Appellant(s)****Vs.****Jaipal and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Balraj Singh Dhull, Advocate for the appellant.

NIDHI GUPTA, J.**CM-23408-CII-2016**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 10 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant, the same is allowed and delay of 10 days in filing the accompanying appeal is condoned.

FAO-6731-2016 (O&M)

The present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,70,450/- granted by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as "the learned Tribunal") vide Award dated 27.04.2016 passed in MACP No. 274 dated 01.08.2015 filed by the claimant under Sections



140/141/166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

2. Brief facts of the case as set out in the claim petition are that on 1.7.2015, the claimant along with a lady named Smt. Rekha Devi was going from Ladwa to Kurukshetra on a motorcycle. On the way his motorcycle was hit by a car bearing registration No. HR-06P-0614 (hereinafter referred as "offending vehicle"). As per the claimant, at the time of accident the offending vehicle was being driven in a rash and negligent manner by the respondent No.1; and that in the above accident he had suffered serious injuries, for the treatment of which he had to spend huge amount. For the loss suffered by the claimant on account of injuries, caused in the above said motor vehicular accident, the claimant has sought compensation to the tune of Rs.20 lakhs.

3. The learned Tribunal on the basis of evidence adduced by the parties concluded that the appellant/injured-claimant had suffered injuries in a motor vehicular accident that took place on 01.07.2015 at about 4:30 p.m. due to the rash and negligent driving of the offending vehicle being driven by respondent No.1; and insured by respondent No.2.

4. Learned counsel for the appellant seeks enhancement of the compensation by submitting that out of the total awarded amount of Rs.3,70,450/-, the appellant had been reimbursed for medical expenses of Rs.2,49,250/-. It is submitted that accordingly nothing has been awarded to the appellant for loss of income, future prospects etc. It is submitted that even the amount given in other categories is also on the lower side



and deserves to be enhanced. It is contended that in passing the Award for the said meagre amount, the learned Tribunal has ignored the fact that appellant has suffered permanent disability and has also suffered immense mental shock, loss of enjoyment, hospitalization and other damages etc. It is submitted that compensation should be at least triple of the awarded amount in the interest of justice. It is accordingly prayed that the impugned Award be modified.

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

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

7. I find no merit in the submissions made on behalf of the appellant. Perusal of the record of the case shows that in the accident in question, the appellant had suffered six fractures i.e. the femur right side with fracture 4th and 5th metatarsal right foot with fracture talus left ankle with fracture lateral condyle right tibia with fracture metacarpal base of 5th finger hand with comminuted fracture olecranon right elbow. As per the record, the appellant has suffered only 10% functional disability and no permanent disability. PW4 Dr. Ashwani Ummat, Consultant Orthopaedic/Medical Officer, Cygnus Hospital Kurukshetra, who had examined the appellant, has deposed that the appellant was admitted in hospital on 01.07.2015 with multiple fractures. However, he had left the hospital against medical advice on 02.07.2015. Further, the appellant had produced medical bills Ex.P7 to Ex.P38, Ex.P47 to Ex.P50, Ex.P57, Ex.P59 to Ex.P61, as per which the appellant had spent a sum of approximately



Rs.1,39,000/- on his treatment. However, the learned Tribunal had awarded sum of Rs.2,49,250/- towards medical expenses keeping in view that the appellant is entitled for compensation equal to the amount charged by Dr. Himanshu Anand. As the appellant had suffered 6 fractures and had been operated upon twice, learned Tribunal had awarded Rs.25,000/- towards pain and suffering.

8. It was the pleaded case of the appellant before the learned Tribunal that prior to the accident, the appellant was a shopkeeper and earning about Rs.25,000/- p.m. However, no proof of income was produced by the appellant. Even appellant was unable to disclose as to the nature of shop being run by him and as to the nature of goods being sold by him. As such, learned Tribunal had taken income of the appellant as unskilled labourer as Rs.10,200/- p.m. on the basis of the notification dated 20.02.2015 issued by the Deputy Commissioner, Kurukshetra; and appellant was held entitled to Rs.61,200/- (Rs.10,200 x 6) for loss of income. The appellant further stated that he remained admitted in Anand Orthopaedic Centre, Kurukshetra from 02.07.2015 to 19.07.2015 for 17 days. It was also stated by the appellant that he had used the services of the ambulance for visiting Anand Orthopaedic Centre, Kurukshetra 43 times. In this regard the appellant had produced ambulance bills, transportation, attendant and other charges as Ex.P39 to Ex.P46, Ex.P51 to Ex.P56 and Ex.P58 for a total sum of Rs.21,500/-. However, the appellant was unable to substantiate the said bills. As such, learned Tribunal had granted Rs.5,000/- as compensation towards transportation charges.

Further, Rs.5,000/- each was granted for attendant charges and special diet.

9. As regard physical disability, the appellant in his cross-examination as PW2 had deposed that his disability was qua particular limb, which could reduce over time. It was further found that the disability of the appellant of 21% was assessed qua limb, which was 10% qua the body, and was only functional in nature and not permanent. As such, learned Tribunal had observed that although the disability may improve with the passage of time, yet more time is required for improving the same. As such, learned Tribunal had awarded Rs.20,000/- towards temporary physical disability. Accordingly, compensation was granted in the following manner: -

Sr. No.	Head	Compensation
1.	For medical expenses	Rs.2,49,250/-
2.	For pain & suffering	Rs.25,000/-
3.	Loss of income	Rs.61,200/-
4.	For transportation	Rs.5,000/-
5.	For attendant charges	Rs.5,000/-
6.	Special diet	Rs.5,000/-
7.	Physical disability	Rs.20,000/-
	Total	Rs.3,70,450/-

10. Respondents no. 1 and 2 were jointly and severally held liable to pay the said compensation. Learned Tribunal further awarded interest @ 9% per annum from the date of filing petition till realization of the compensation amount.



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.

02.04.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

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