



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

228

FAO-4475-2015(O&M)

Date of decision: 16.03.2026

Tilak Raj

...Appellant(s)

Vs.

Darshan Singh @ Gogi & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Krishan Singh, Advocate
Mr. Deep Singh Saini, Advocate
for the appellant.

Mr. Pradeep Kumar, Advocate
for respondent No.3.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.2,57,422/- awarded by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter 'the learned Tribunal') vide Award dated 27.02.2015 passed in MACT Case No.21 dated 25.02.2012 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). Out of total awarded compensation of Rs.2,57,422/-; 50% was deducted towards contributory negligence thereby granting compensation of Rs.1,28,711/- to the appellant.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties,



concluded that appellant had suffered injuries in a motor vehicular accident that took place on 20.07.2011 due to the rash and negligent driving of Truck bearing registration No.PB-10-CN-8679 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The said compensation has been awarded along with interest @ 7.5% per annum. Respondents No.1, 2 and 3 were held jointly and severally liable for payment of compensation.

3. Ld. counsel for the appellant assails the impugned Award by submitting that the learned Tribunal was in patent error in making a deduction of 50% towards contributory negligence as there was no negligence on part of the appellant in causing the accident in question.

4. It is submitted that even the quantum of compensation awarded to the appellant is on the lower side. The learned Tribunal has awarded only an amount of Rs.2,25,422/- towards treatment; whereas Rs.5 lakh should be awarded. The learned Tribunal has failed to appreciate that in the accident in question, the appellant had suffered a head injury because of which he has suffered total loss of memory. As such, Learned Tribunal ought to have awarded Rs.2 lakh towards pain and suffering. Special diet should be Rs.50,000/-; transportation should also be Rs.50,000/-. Attendant charges are on the lower side. Nothing has been awarded by the learned Tribunal towards loss of income.



5. It is accordingly prayed that the present appeal be allowed and the findings of the learned Tribunal on the issues be modified and the appellant be awarded compensation of Rs.15 lakh.

6. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellant and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

7. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

8. The pleaded case of the appellant before the learned Tribunal as recorded in Para 2 of the impugned Award that:-

“2. Per averments, the claimant on the ill fated day was coming from Faridabad to Jagadhri in his Swift Dzire car no.HR- 10P-6435 and the accident occurred when driver of truck bearing No.PB-10CN-8679 moving ahead of his car had suddenly applied the brakes and the claimants car in spite of making best efforts on his part to avoid the accident had collided against the backside of the truck. The claimant sustained multiple grievous injuries on his, head, face left arm and other parts of the body. Bhagwan Dass the owner of Sharma Dhaba, who was witnessing the accident had informed the police which ultimately brought the claimants to Civil Hospital, Karnal. He was later brought to Fortis Hospital, Mohali for management of his injuries and he remained admitted there from 20.07.2011 to 02.08.2011. It was



pleaded that the claimant had spent more than Rs.4,50,000/- on his treatment till the date of filing of the petition.”

9. The contention of the appellant that the learned Tribunal has wrongly made a deduction of 50% towards contributory negligence, is ill-founded as a perusal of the record shows that the appellant in his cross-examination has admitted that he had covered a distance of about 120 km in approximately one-and-a-half hour; and that the car being driven by the appellant had struck into the rear of the stationary truck/offending vehicle as the appellant could not control the car. Clearly, therefore, the appellant was driving the car at a very high speed. This sequence of events has been corroborated from the evidence of eyewitness PW4 Bhagwan Dass, Dhaba owner, who had deposed that the offending vehicle had stopped in front of his Dhaba and the car being driven by the appellant had hit behind the truck and the car being driven by the appellant had hit behind the truck as its driver could not control his vehicle.

10. From the above facts, it is clear that the car driven by the appellant had struck against the backside of the stationary offending truck. Thus, the appellant has been rightly held accountable for contributory negligence to the extent of 50% for causing the accident in question.

11. As regards quantum of compensation, it was the pleaded case of the appellant that in the accident in question, he had *“sustained multiple grievous injuries on his head, face, left arm and other parts of the body.”*



Before this Court, it has been contended that the appellant had suffered head injury because of which he has suffered total loss of memory. However, it is to be seen that the appellant has not examined any doctor to prove the alleged injuries sustained by him. Even no Disability Certificate issued by any Medical Board has been produced by the appellant. No doubt the appellant has produced a Certificate (Ex.P38), as per which it is stated that the mental faculties and memory of the appellant have been adversely affected. However, the said Disability Certificate has been rightly discarded by the learned Tribunal for the following reasons:-

“21...The Tribunal, however, finds it difficult to consider the certificate Ex.P38 as a proff of alleged disability for two reasons namely, (i) the certificate Ex.P38 merely indicates that the claimant was diagnosed to be suffering from organic brain syndrome and there is no mention therein that the said sufferance tent amounts to a kind of permanent disability and (ii) Gourav Sharma PW2 through whom the certificate Ex.P38 was sought to be proved, has clearly indicated in his cross-examination that he was not a doctor by profession and had not given any treatment to the patient and therefore, the evidence of said witness cannot be treated as proof of disability. In these circumstance. The tribunal rejects the claimant's plea on the point that he has suffered permanent disability and is entitled to compensation on that count. “

12. As regards the quantum of compensation, the appellant had remained hospitalized from 20.07.2011 to 02.08.2011 and had produced



Final Bill (Ex.P36). Learned Tribunal has examined the bills submitted by the appellant in minute detail as noted in Para 16 of the impugned Award; and has discarded certain bills i.e. Ex.P21 to Ex.P34 as they pertained to expenditure incurred by the appellant after his discharge. Certain other bills i.e. Ex.P21, Ex.P23 and Ex.P33 have been discarded as the same had been tendered twice i.e. copies of the said three bills had also been tendered as Ex.P22, Ex.P24 and Ex.P34 respectively. Accordingly, the learned Tribunal had calculated that the appellant had incurred medical expenses of Rs.2,25,422/- and granted the said amount towards treatment. I find no error in the same.

13. Keeping in view the injuries suffered by the appellant, the Tribunal had awarded Rs.20,000/- towards pain and suffering; Rs.5,000/- towards attendant charges; Rs.5,000/- towards transportation charges; and Rs.2,000/- towards special diet; thereby granting total compensation of Rs.2,57,422/-, which after deduction of 50% came to Rs.1,28,711/-.

14. The contention of the appellant that nothing has been awarded towards loss of income, is also liable to be rejected as, although the appellant in his Affidavit (Ex.PW1/A) had asserted that he was earning Rs.70,000/- per month, however, as per the Salary Certificate (Ex.P40) produced by the appellant, salary was shown to be Rs.25,000/-. Moreover, even the said alleged salary was not proved as the appellant had failed to examine any employer or authorised agent of his employer. In this view of the matter, I find no infirmity in the impugned Award.



15. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.
16. In view of the above, present appeal stands **dismissed**.
17. Pending application(s) if any also stand(s) disposed of.

16.03.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No