

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****237****FAO-1967-2019(O&M)****Date of decision: 07.05.2025****Jawahar Singh****...Appellant(s)****Vs.****Deepak Kumar & Another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Baljeet Beniwal, Advocate for the appellant.

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**NIDHI GUPTA, J.**

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.6,50,000/- awarded by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as "the Tribunal"), vide Award dated 13.07.2018 passed in Claim Petition No.99 dated 29.09.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act").

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that the appellant had suffered injuries in a motor vehicular accident that took place on 03.04.2016 due to the rash and negligent driving of three-wheeler bearing registration No.HR-73-5772 (hereinafter referred to as "the offending vehicle") by respondent No.1. The offending vehicle was owned by respondent No.1 and insured by respondent No.2. The above-said compensation was granted along with interest @ 7.5% per



annum from the date of filing the claim petition till the date of actual realisation. Respondents were held jointly and severally liable to pay the aforesaid compensation.

3. Learned counsel for the appellant inter alia submits that the compensation granted by the learned Tribunal is on the lower side as it is proven fact on record that the appellant was a serving Sub-Inspector in the Haryana Roadways Depot at Faridabad and is an agriculturist. As such, prior to the accident, the appellant was deriving monthly income of Rs.40,000/-. It is further submitted that in the accident in question, the appellant had suffered multiple simple and grievous injuries due to which he remained hospitalised for about 2 months. The appellant had spent about Rs.10 lakh on his treatment. The appellant is an Ex-serviceman and getting pension only. In addition to that, he is owner of irrigated agricultural land. Before the accident, the appellant was a very successful farmer and himself used to cultivate, manage and supervise his entire land. It is accordingly prayed that the Award be modified and the compensation awarded to the appellant be enhanced.

4. No other argument is made 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 by the appellant in the Claim Petition are that on 3.4.2016, claimant was going to his house from Bus



Stand and when he reached near Chirag Palace, around 6.30 p.m., a three-wheeler bearing registration no.HR-73-5772/offending vehicle, being driven by the respondent no.1 in a rash and negligent manner and also at a high speed came and hit him from behind. The driver of the vehicle in question told his name as Deepak son of Balbir. One Raj Singh, resident of village Banchari and Mukesh Kumar, resident of Hodal rushed towards the spot and they called Satish, son of the claimant on telephone, who got the injured admitted in Asian Hospital, Faridabad. Respondent no.1 made efforts to compromise the matter, but in vain. The accident in question had taken place solely due to rash and negligent driving of the offending vehicle by respondent no.1. Claimant got registered a case on the basis of his statement vide FIR No.213 dated 22.4.2016 against him for causing the accident in question. It has been further pleaded that at the time of the accident, claimant sustained multiple and grievous injuries including head, right leg and chest. He was taken to Asian Hospital, Faridabad, where he remained admitted from 3.4.2016 to 7.6.2016 and where he was also medico-legally examined. A sum of Rs.10,00,000/- was spent on treatment, conveyance, attendant and special diet. He was still under treatment and some more amount was required for his future treatment. He was aged about 57 years and was a Sub Inspector in Haryana Roadways Depot at Faridabad. His monthly income was Rs.40,000/-. Prior to the accident, he was quite hale and hearty. He suffered great pain and agony. Due to



injuries sustained in the accident, he is unable to work continuously and became a permanent disabled person. The claimant made a claim of Rs.25 lacs. All the respondents are liable to pay the compensation.

7. However, a perusal of the record shows that the appellant in his cross-examination has himself admitted that *"It is correct that I was receiving full salary during the accidental period from my Department"*. In view of the said admission of the appellant, nothing was awarded towards loss of income. Further, as per the duly sworn affidavit submitted by the appellant, he had stated therein that he had already taken reimbursement of Rs.2,32,000/- and Rs.2,23,450/- against bills (Mark A and Mark B) from his Department. As such, of the medical bills (Ex.P7, Ex.P10 to Ex.P26 and Ex.P27 to Ex.P40) produced by the appellant for a total sum of Rs.9,68,300/-, the appellant had already received Rs.4,62,450/- from the Haryana Roadways towards medical reimbursement. Ld. Tribunal had accordingly awarded remaining amount of Rs.5,06,000/- towards medical expenses.

8. Further, as per the Disability Certificate (Ex.P5), the appellant was shown to have suffered non-union fracture right femur (subtrochaneric) with proximal femur nail in situ. As per the Board of Doctors constituted to assess the disability of the appellant, he had suffered disability to the extent of 12% only. The same was proven from the evidence of PW1 Dr. Chirag Sethi, Orthopedic Surgeon. Thus, learned



Tribunal had correctly awarded Rs.24,000/- i.e. Rs.2,000/- for every 1% of disability in terms of judgment in “**Ram Karan Goyal Vs. Sub-Divisional Engineer, Mechanical & Others**” 2008(2) RCR (Civil) 103; Law Finder Doc ID # **138136**. As the appellant had remained hospitalised from 03.04.2016 to 12.04.2016 and then again from 03.06.2016 to 07.06.2016 and had undergone three operations, the learned Tribunal awarded Rs.30,000/- for pain & suffering. Further, a sum of Rs.60,000/- was awarded towards loss of amenities and enjoyment of life; Rs.20,000/- towards special diet and attendant charges and Rs.10,000/- for transportation charges. Thus, awarding total compensation of Rs.6,50,000/- in following manner:-

i.	Medical expenses less amount of reimbursement as admittedly taken by claimant from his department	Rs.5,06,000/-
ii.	On account of disability to the extent of 12%	Rs.24,000/-
iii.	Pain and suffering	Rs.30,000/-
iv.	Loss of amenities & enjoyment of life	Rs.60,000/-
v.	Special diet and attendant charges	Rs.20,000/-
vi.	Transportation charges	Rs.10,000/-
	Total	Rs.6,50,000/-

9. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellant. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellant. I find the compensation awarded to the appellant to be just and fair in the facts and circumstances of the



case. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in **'State of Haryana & Another Vs. Jasbir Kaur & Others'** 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 bonanza nor a source of profit but at the same time it should not be a pittance. 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. In the case of **"General Manager, KSRTC Vs. Susamma Thomas & Others"** 1994 Volume-II SCC 176, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

10. In view of the above, present appeal is **dismissed**.
11. Pending application(s) if any also stand(s) disposed of.

**07.05.2025**

Sunena

**(Nidhi Gupta)**

**Judge**

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