

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****212****FAO-3631-2016 (O&M)****Date of decision: 26.03.2025****Bhagwan Dass****...Appellant(s)****Vs.****Vishal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Naveen Jhajholia, Advocate for
Mr. Sanjiv Gupta, Advocate for the appellant.

*********NIDHI GUPTA, J.**

The present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.4,62,579/- granted by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as "the learned Tribunal") vide Award dated 29.01.2016 passed in claim petition No. 22 dated 15.01.2015 filed by the claimant under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act").

2. At the very outset, it may be pointed out that the present appeal is of the year 2016. However, notice has not yet been issued in the same as the matter has been repeatedly adjourned at request of learned counsel for the appellant.

3. Brief facts of the case are that the learned Tribunal on the basis of evidence adduced by the parties concluded that the appellant/injured-claimant had sustained injuries in a motor vehicular accident that took place on 25.11.2014 due to the rash and negligent



driving of Dzire car bearing registration No. PB-11-ZJT-3876 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3.

4. Learned counsel for the appellant seeks enhancement of the compensation by making short submissions that nothing has been granted by way of special diet or transportation. It is submitted that the appellant had duly proven before the learned Tribunal that services of the Physiotherapist had also been engaged. However, nothing has been granted by way of medical expenses or physiotherapy either. Learned counsel accordingly prays that the impugned award be modified; and compensation granted to the appellant be enhanced.

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

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

7. It was the pleaded case of the appellant in the claim petition before the learned Tribunal that on 25.11.2014, the claimant alongwith Arun Kumar son of Deputy Lal, was going for morning walk on their respective bicycles and the claimant was going ahead to Arun Kumar. At about 7.40 a.m., when the claimant reached near village Kalyan and opposite to Animal Husbandry Department, then the respondent no. 1 after crossing the other vehicle, struck his car bearing registration No. PB-11-ZJT-3876/the offending vehicle, while coming on the wrong side of the road, against the bicycle of claimant. It has been further pleaded that the



respondent no. 1 was driving the aforesaid offending car in a rash and negligent manner and as a result of the aforesaid accident, the claimant received multiple and grievous injuries on his head, chest, jaw, both arms and other parts of the body and due to the said injuries, the claimant became unconscious. It has been further pleaded that the claimant was got admitted in Amar Hospital, Patiala by the aforesaid Arun Kumar with the help of other persons, where he remained admitted in Amar Patiala Hospital w.e.f. 25.11.2014 to 6.12.2014 and the claimant is still confined to bed and is unable to do any work and has become permanently disabled. It has been further pleaded that FIR No. 181 dated 1.12.2014 under sections 279/337/338/427 IPC was registered against the respondent no. 1 at P.S. Passsiana Distt. Patiala. It has been further pleaded that the claimant was 41 years of age at the time of the accident and used to earn Rs. 1 lac per month as he is A-class Govt. contractor. The claimant claimed Rs. 30 lacs, as compensation on account of the injuries suffered by him in the accident in question and further pleaded that the respondents are jointly and severally liable to pay the compensation.

8. Perusal of the record of the case shows that the appellant had examined PW3/CW3 Dr. Arun Bansal, Neuro Surgeon, Amar Hospital, who had testified that in accident in question, the appellant had suffered injuries because of which he was brought to the hospital on 25.11.2014 in an unconscious condition; and as per the CT scan of the brain, blood clots were found in his brain and he was kept in ICU on ventilator. The appellant had also suffered chest injuries; some orthopedic injuries; and also



brachial plexus injuries on the left side and had weakness of left upper limb. PW3/CW3 had also proven on record the discharge summary Ex.C28; certificates issued by him Ex. C24, Ex. C29; and OPD slip Ex.C30 and Ex.31.

9. The appellant had also produced PW5 Jasvir Kaur @ Jasdeep Kaur, the alleged Attendant/Nurse whose testimony was disbelieved by the learned Tribunal as she had claimed to have been attending upon the appellant for 24 hours while also studying for her examination. The learned Tribunal had found her to be a planted witness. As such, nothing was granted for Nurse/Attendant charges. I find no error in the above reasoning of the learned Tribunal.

10. The appellant had also produced PW6/CW6 Kamal Kumar, Physiotherapist, who had admitted during his cross-examination that he did not maintain a clinic or office; and he used to visit home or office of his patients. PW6/DW6 also admitted that he did not maintain even a record/Register of his visits and does not issue any receipt for fees paid and does not file income tax return. For this reason, the learned Tribunal had also discarded the testimony of PW6 holding that he was a procured person just to extract more compensation. It is my view that the learned Tribunal has rightly discarded the testimony of this witness.

11. The wife of the appellant Kirna had appeared as PW1/CW1 and deposed that the appellant is unable to move and not in a fit state of mind and therefore, he is unable to appear in Court. She further deposed that prior to the accident, the appellant was working as Class Govt. Contractor having income of Rs.1 lac per month and was assessed to



income tax. Due to the injuries received in the accident the working capacity of the appellant has decreased, and his memory had also weakened.

12. The appellant had also examined PW7/CW7 Dr. Harjit Singh Chawla, who had testified that as per disability certificate (Ex.PX) issued by the Medical Board, the appellant had suffered only temporary disability of 50% on left upper motor neuron hemispheres. Learned counsel for the appellant is unable to inform this Court as to the current physical condition, and the current extent of disability of the appellant, if any.

13. As regards quantum, to prove his income, the appellant had examined PW4/CW4 Gurjit Kaur, Inspector, Income Tax Office, Patiala, who had brought Income Tax Returns of the appellant for the years 2013-14 and 2014-15 Ex.C32 and Ex.C33 respectively. Accordingly, learned Tribunal had taken income of the appellant as per the relevant assessment year 2014-15 Ex.C33 which shows annual income of the appellant to be Rs.3,57,340/- i.e. monthly income of Rs.29,788/-. The appellant had also proved on record his medical bills Ex.C1 to C24 for an amount of Rs.2,29,022/- as expenses incurred for treatment. Further, based on the testimony of Dr. Harjit Singh Chawla to the effect that claimant had suffered 50% temporary disability as per disability certificate Ex. PX, the learned Tribunal had assessed 50% loss of monthly income of the appellant from the date of accident i.e. 25.11.2014 till date of Award i.e. 29.01.2016. Accordingly, on the basis of monthly income of Rs.29,778/-, learned Tribunal granted Rs.1,93,557/- towards 50% temporary disability



suffered by the appellant. Learned Tribunal has further awarded compensation of Rs.2,29,022/- for the injuries suffered by the appellant; and Rs.40,000/- on account of pain and suffering. However, for the reasons noted above, the learned Tribunal had declined to grant any compensation towards Nurse/Attendant charges or Physiotherapy charges as no evidence was produced by the appellant to show that PW5/CW5 Jasvir Kaur Nurse/Attendant or PW6/CW6 Kamal Kumar, Physiotherapist had administered their services to the appellant. Accordingly, compensation was granted in the following manner: -

Sr. No.	Head	Calculations
1.	Monthly income	Rs.29,778/-
2.	Income assessed after calculating 50% loss of income on account of 50% temporary disability	14,889/-
3.	Loss of income period from date of accident i.e. 25.11.2014 (wrongly typed as 25.12.2014) till decision of claim petition i.e. 29.1.2016 and not beyond as 50% temporary disability.	13 months
4.	Compensation on account of 50% loss of income on account of 50% loss of temporary disability	Rs.14889 x 13=Rs.1,93,557/-
5.	Compensation for pain and suffering	Rs.40,000/-
6.	Compensation on account of medical expenses	Rs.2,29,022/-
7.	Total	Rs.4,62,579/-

14. 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.



15. 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.

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

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

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

26.03.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

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