

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

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FAO-3048-2018(O&M)**Date of decision: 30.04.2025****Tarsem Sharma****...Appellant(s)****Vs.****Rajeev Kumar & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ishan Gupta, Advocate
for the appellant.

Mr. Gopal Mittal, Advocate
for respondent No.3.

NIDHI GUPTA, J.**CM-11799-CII-2018**

This is an application under Section 151 CPC for condonation of delay of 148 days in re-filing the appeal.

After going through the contents of the application, supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 148 days in re-filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.1,21,004/- awarded by the



Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as “the Tribunal”), vide Award dated 11.02.2016 passed in MACT Case No.18 dated 01.02.2014 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/injured-claimant had suffered injuries in a motor vehicular accident that took place on 09.07.2013 at about 4 pm due to the rash and negligent driving of car bearing registration No.HR-08G-6042 (hereinafter referred to as “the offending vehicle”) by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3. The above-said compensation was granted along with interest @ 7.5% p.a.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that in awarding meagre compensation of only Rs.1,21,004/-, the learned Tribunal has failed to take into account the serious and grievous injuries suffered by the appellant in the accident in question. It is submitted that after the accident, the appellant had remained hospitalised and even an implant was put in the back of the appellant. The appellant had also proved bills on file (Ex.C1 to Ex.C13) and had incurred expenditure of Rs.1 lakh on his treatment. However, none of



these facts have been taken into account while granting compensation to the appellant. It is also submitted that the appellant had suffered temporary disability of 57%, which has not been considered by the learned Tribunal. It is accordingly prayed that the impugned Award be modified and the compensation granted to the appellant be enhanced.

4. Prayer of the appellant is vehemently opposed by learned counsel for respondent No.3-Insurance Company by submitting that no ground is made out to enhance the compensation awarded to the appellant. It is submitted that the learned Tribunal held the offending vehicle to be involved in the accident in question only on the ground that the driver of the offending vehicle had not been examined in the case; and as such adverse inference was drawn against him. It is accordingly prayed that the present appeal be dismissed.

5. No other argument is made on behalf of the parties.

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

7. It has been submitted on behalf of the appellant that in the accident in question, the appellant had suffered multiple grievous and serious injuries. However, despite repeated queries from learned counsel for the appellant, no information is forthcoming as regards the nature of injuries suffered by the appellant. Even in the claim petition all that has



been stated by the appellant is that the offending vehicle had come and struck into the motorcycle on which the appellant and his daughter were riding due to which they fell down on the road and *"...sustained multiple injuries on their person. An ambulance 108 came at the spot by chance. The claimant and his daughter were taken to Civil Hospital and claimant was referred to PGI. The claimant and his daughter suffered injuries because the car struck into the motorcycle. FIR was not lodged because the respondents no.1 and 2 committed to bear all the expenses and to compensate the claimant, but they failed to fulfill the promise. It is further alleged that the accident took place due to rash and negligent driving of respondent no.1. The motorcycle was driven by the claimant at a very slow speed and on correct side. Respondent no.1 Rajiv Sharma struck the car into the motorcycle by coming on wrong side. The claimant remained admitted in the hospital for sufficient period. Due to the accident, the claimant has become permanently disabled and he is on bed. The claimant has suffered lot of pain and is still feeling inconvenience due to the injuries..."*. Nothing whatsoever has been stated as regards the nature of injuries suffered by the appellant. Even the nature of permanent disability etc. has not been mentioned.

8. A perusal of the evidence led by the appellant shows that the appellant had examined CW1 Dr. Arun Kapoor, who had deposed



that the appellant was admitted in the hospital on 10.07.2013 and was discharged on 14.07.2013 and during hospitalisation *“implant was put on the back side of the patient.”* Although the appellant had brought on record a Disability Certificate but the same was not proved by the appellant. The appellant had produced medical bills (Ex.C1 to Ex.C13) for an amount of Rs.66,004/-. As such, the learned Tribunal had awarded compensation as follows: –

Special diet – Rs.10,000/-
Pain & suffering – Rs.25,000/-
Attendant charges – Rs.10,000/-
Transportation charges – Rs.10,000/-
Medical expenses – Rs.66,004/-
Total - Rs.1,21,004/-.

9. As regards the argument of learned counsel for the appellant that the appellant had suffered disability of 57%, there is no evidence on record to support the said contention. Admittedly, the Disability Certificate has not been proved in accordance with law before the learned Tribunal. Nothing has been pointed out to this Court in the deposition of CW1 Dr. Arun Kapoor regarding any disability - permanent or temporary – suffered by the appellant. Rather to the contrary, it has been categorically found by the Id. Tribunal that *“...There is no permanent or temporary disability of the claimant/injured Tarsem Sharma in the present case. Although at later stages, claimant has placed on file the disability*



certificate, but this document is not proved on the file. It is a settled proposition of law that disability certificate is to be proved on the file by examining the concerned doctor, but it is not so in the present case....”.

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

30.04.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No