

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****218****FAO-4149-2015(O&M)****Date of decision: 12.05.2025****Tarlochan Singh****...Appellant(s)****Vs.****Harjit Singh & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vinay Puri, Advocate
for the appellant (through VC).

Mr. Saurabh Bahmani, Advocate
for respondent No.1.

Mr. Vinod Gupta, Advocate
for respondent No.3/Insurance Company.

NIDHI GUPTA, J.

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.1,87,193/- awarded by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as "the Tribunal"), vide Award dated 19.12.2014 passed in Claim Petition No.10 dated 17.01.2014 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act").

2. Brief facts of the case are that the learned 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 19.09.2012 at about 9 pm due to the rash and negligent driving of truck bearing registration No.HP-12-D-2355 (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 @ 6% per annum from the date of filing the claim petition till its realisation.

3. Learned counsel for the appellant/injured-claimant inter alia submits that prior to the accident, the appellant was working with Ambuja Cement Factory, Rupnagar and getting a salary of about Rs.20,000/- per month. Due to the accident in question, the appellant had suffered multiple and grievous injuries in stomach, on head and other parts of his body because of which he was referred to PGI Chandigarh from where he is still under treatment. The appellant had spent more than Rs.2 lakh on his treatment. The appellant is the only breadwinner of his family but due to the accident, he has become permanently disabled and is unemployed. The appellant had remained out of job for 5 months which is clear from the evidence of PW3 Varinder Sehgal, Deputy Manager at Ambuja Cement Factory, Rupnagar. As such, loss of income had to be granted by the Tribunal for 5 months. However, loss of income has been given only for 4 months.

4. Further, the learned Tribunal has accepted medical bills only for a sum of Rs.45,000/-; whereas the appellant had spent more than Rs.2 lakh on his treatment. It is submitted that the learned Tribunal failed to



take into account the fact “that the respondent No.2 was owner of the offending vehicle and the Insurance Company had joined their hands as the respondent No.2 opted not to contest the Claim Petition and Insurance Company had never produced any evidence before the Tribunal including Insurance Policy despite several opportunities. Respondent No.2 was proceeded against ex parte.” As such, case of the appellant was duly proven. Learned counsel accordingly prays that compensation awarded to the appellant be enhanced.

5. Learned counsel for respondent No.3/Insurance Company assisted by learned counsel for respondent No.1 vehemently oppose the prayer made on behalf of the appellant and submits that no ground is made out to enhance the compensation awarded to the appellant. It is submitted that the appellant has suffered no permanent disability. Learned counsel accordingly prays for dismissal of the present appeal.

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

7. I have heard learned counsel for the parties and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellant.

8. Perusal of record of the case shows that it was the pleaded case of the appellant that in the accident in question, he had received “...multiple and grievous injuries in stomach, on head and other



parts of his body...". Perusal of record further shows that the appellant had produced no doctor to prove his injuries. Only a bald statement has been made by the appellant without any evidence in support. The alleged permanent disability of the appellant also remains unproved as even no Disability Certificate has been brought on record by the appellant. The appellant only produced Medical bills and receipts (Ex.P2 to Ex.P-51), Discharge Certificate (Ex.P-52), transportation bills (Ex.P-53 to Ex.P-61). However, even the same have not been proved in accordance with law as no doctor or any other medical staff has been examined to prove the said documents. Yet, the learned Tribunal had opined that *"...So far as the medical bills, receipts, discharge certificate Ex.P2 to Ex.P52 are concerned, this Court is of considered view that the claimant has proved all these medical bills, receipts, discharge certificate Ex.P2 to Ex.P52 and there is no need to call the person, who had issued these bills, receipts and discharge certificate Ex.P2 to Ex.P52 and due to this, non-examination of chemist would not fatal to the case of the claimant..."* and had accordingly granted Rs.45,193/- towards medical bills and receipts (Ex.P2 to Ex.P-51).

9. It has next been contended by learned counsel for the appellant that due to the accident, he had remained absent from duty from 01.09.2012 to 30.01.2013. In support, the appellant had produced PW3 Varinder Sehgal, Deputy Manager at Ambuja Cement Factory, Rupnagar where the appellant is stated to have worked. PW3 had deposed that



appellant had remained absent from work for five months from 1.9.2012 to 30.1.2013. However, the utter falsity of the said statements is borne out from the fact that the accident itself is of 19.09.2012; whereas appellant is claiming to have remained absent since before the accident, from 01.09.2012. Even as per Discharge Summary (Ex.P-52), the appellant had remained admitted in hospital from 20.09.2012 to 03.10.2012. The learned Tribunal thus, correctly assessed loss of income as ₹92,000/-. It was the own case of the appellant that he was getting salary of Rs.23,076/- per month. Accordingly, the learned Tribunal had held the appellant entitled to loss of income of Rs.92,000/- (Rs.23,000/- x 4). Learned Tribunal had further awarded Rs.30,000/- towards mental pain and agony; Rs.20,000/- for attendant charges; and thus, awarding total compensation of Rs.1,87,193/-.

10. 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. 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. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a more than 'just' compensation, which 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.

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

12.05.2025
Sunena

(Nidhi Gupta)
Judge

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