

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE ANIL VERMA**

**ON THE 5<sup>th</sup> OF JULY, 2024**

**MISC. APPEAL No. 1929 of 2024**

*(ANJALI MINOR THROUGH LEGAL GUARDIAN FATHER SANTOSH*

*Vs*

*IRFAN AND OTHERS)*

**Appearance:**

*(MS SURBHI BAHAL ADVOCATE FOR APPELLANT)*

**ORDER**

Heard on IA No. 2526/2024 which is an application under section 5 of Limitation Act for condonation of delay in filing this appeal.

2 Delay of 74 days has duly been explained in the application which is supported by the affidavit.

3 Therefore, IA is allowed and delay of 74 days is hereby condoned.

4 Heard learned counsel for the appellant on admission.

5 The appellant has preferred this appeal under Section 173(1) of Motor Vehicles Act, 1988 (hereinafter referred as "MV Act") for enhancement of the compensation amount awarded in claim case No. 1/2023 vide award dated 17.10.2023 passed by the First Member, MACT, Biaora District Rajgadh whereby an amount of compensation of Rs. 1,66,086/- has been awarded to the appellant.

6 Relevant and necessary facts of the case are that on 9.6.2022 at about 11 am when the appellant was going to Aaganbadi, at that time she was hit from backside by Eicher truck bearing registration No. MP-41-GA-3544 driven by respondent no. 1 rashly and negligently due to which appellant fell down on the road and she sustained fracture on her left leg and other injuries. She was

admitted in Maheshwari Hospital Bhopal, offence under sections 279, 337, 338 IPC and Section 184 of MV Act vide crime No. 299/2022 has been registered at police station Suthaliya against respondent no.1. The appellant/claimant is five years old child, she is a student, due to accident her study was badly affected. Respondent no. 2 is owner of the offending vehicle and at the time of incident the offending vehicle was insured with respondent no. 3.

7 Respondents no. 1 and 2 did not file any written statement before the below tribunal. Respondent no. 3 denied all claim averments by submitting that at the time of accident, respondent no. 1 and 2 were not having any valid and effective permit and fitness, therefore, due to breach of terms of insurance policy, respondent No. 3 is not liable to pay any compensation amount.

8 The learned Claims Tribunal after framing the issues, recording and appreciating the evidence available on record partly allowed the claim case and passed an award of Rs. 1,66,086/- towards the compensation with interest of 6% per annum. Being aggrieved by the findings given by the below Tribunal, this appeal has been preferred by the appellant.

9 Learned counsel for the appellant contended that the below Tribunal has committed legal and factual error in not considering the compensation amount under the head of loss of future income due to permanent disability, special diet, nutrition. She submits that the compensation amount awarded by the below tribunal is on lower side. Hence she prays for enhancement of compensation amount awarded by the below tribunal.

10 I have heard arguments advanced by learned counsel for the appellant and perused the record with due care.

11 It is established from the oral as well as documentary evidence

available on record that the aforesaid accident took place by the offending vehicle, being driven by the respondent No.1 and at the time of accident, vehicle was duly insured with the respondent No.3 Insurance Company. There is no evidence available on record to establish that there was any breach of insurance policy committed by the owner and driver of the offending vehicle, therefore, Insurance Company is liable to pay the compensation.

12 So far as enhancement of compensation amount is concerned, the appellant sustained bony injury but she did not sustain any permanent disability. The appellant did not file any relevant certificate regarding permanent disability issued by District Medical Board, therefore, there is no need to award any compensation under the head of permanent disability or loss of future income.

13 Learned counsel for appellant contended that the below tribunal has not awarded proper compensation as per revised guidelines/instructions issued by MP State Legal Services Authority regarding compensation in motor accident claim cases. But from perusal of the impugned award, it appears that the appellant/claimant sustained bony injury (medical documents Exs. P-7 to Ex.P-13), therefore, the below tribunal has rightly awarded compensation of Rs. 50,000/-; attendant charges of Rs. 5,000/-; and special diet and nutrition Rs. 5,000/-. At the time of accident, the appellant was only five years old child and she has no independent source of income, therefore, in other heads, she is not entitled for any compensation amount.

14 From perusal of the entire evidence available on record, this court is of the considered opinion that in view of the claimant's age, injuries sustained by her and expenses, the compensation awarded by the below tribunal is just, proper and adequate which does not deserve for any interference.

15 In the result, this Misc. Appeal fails and is hereby dismissed.

16 Parties shall bear their own expenses.

BDJ

**(ANIL VERMA)**  
**JUDGE**

