

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 18th May, 2012

+ **FAO 533/2003**

MRS. HARMIT KAUR Appellant
Through: Mr. M.L.Mahajan, Advocate
Mr. Gaurav Mahajan, Adv.
versus

AJIT SINGH & ORS. Respondents
Through: Ms. Madhu Tewatia Adv. with
Ms. Sidhi Arora, Adv. for State
of Punjab.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Appeal is for enhancement of compensation of ₹8,33,770/- awarded to the Appellant Harmit Kaur for having suffered injuries in a motor accident which occurred on 04.11.1995.
2. The Appellant suffered injuries on various parts of the body. On account of the injuries suffered, she lost consciousness. She remained admitted in Muni Lal Chopra Memorial Hospital at Amritsar from 04.11.1995 to 06.11.1995. On 07.11.1995 she was shifted to VIMHANS Hospital, Delhi where she remained admitted from 07.11.1995 to 13.12.1995 and then from 01.04.1996 to 03.04.1996.

3. The Appellant was awarded a compensation of ₹8,33,770/- which is tabulated hereunder:-

Sl.No.	Compensation under various heads	Awarded by the Claims Tribunal
1.	Treatment & Nursing	₹5,57,770/-
2.	Loss of Earning	₹1,66,000/-
3.	Pain & Agony	₹ 30,000/-
4.	Loss of Marital Bliss	₹ 30,000/-
5.	Future Treatment	₹ 50,000/-
	Total	₹ 8,33,770/-

4. While awarding the compensation, the Motor Accident Claims Tribunal (the Claims Tribunal) relied on a Division Bench judgment of this Court in *Rattan Lal Mehta v. Rajinder Kapoor* 1996 ACJ 372 and observed that on account of suffering partial paralysis of the left side, the Appellant had become a partial wreck.
5. The Appellant produced three expert witnesses i.e. PW-2 Dr. V.K.Malhotra, PW-3 Dr. S.N.Chaudhary and PW-4 Dr. Manohar Lal Sharma who deposed about the treatment given to the Appellant from time to time. It was established on record that the Appellant was bedridden for a period of eight months. Her treatment was still continuing since a period of four years

after the accident, when her statement was recorded on 18.08.1999. The Claims Tribunal at the time of recording of her testimony got her medically examined from G.B. Pant Hospital. Thus, in the year 1999, the Appellant was diagnosed with post traumatic sequel, organic mental disorder, organic amnestic syndrome, major depression, multiple cognitive deficits and pyramidal and extra pyramidal motor dysfunction.

6. Thus, there cannot be any dispute about the conclusion reached by the Claims Tribunal that the Appellant on account of injuries suffered by her became partial wreck.
7. The learned counsel for the Appellant does not make any grievance about the compensation awarded towards the cost of treatment. His contention is that the compensation of ₹30,000/- awarded towards pain and suffering is very meager. No compensation has been awarded towards loss of amenities in life on account of her being partial paraplegic. She would require the service of an attendant throughout her life. No provision has been made by the Claims Tribunal for the same.
8. It is difficult to measure in terms of money the pain and suffering which has been suffered by the claimant on account of serious injuries caused to him in a motor accident. Since the compensation is required to be paid for pain and suffering an attempt must be made to award compensation which may have some objective relation with the pain and suffering underwent

by the victim of a motor accident. For this purpose, the Claims Tribunal and the Courts normally consider the nature of injury; the parts of the body where the injuries were sustained; surgeries (if any) underwent by the victim; confinement in the hospital and the duration of the treatment.

9. Considering the period of hospitalization, very long duration of treatment and the fact that the Appellant has suffered 25% intellectual impairment. I would enhance the compensation towards pain and suffering from ₹30,000/- to ₹75,000/-.
10. The Appellant would be deprived of the amenities of life throughout her life. She would not be in a position to move independently and would be dependent mainly on servants as all her family members have died in this very accident. Considering that this accident occurred in the year 1995, I would make a provision of ₹75,000/- towards loss of amenities in life.
11. I have already dealt with the medical report. PW-3 Dr. S.N. Chaudhary from VIMHANS Hospital deposed that when the Appellant was discharged from the hospital on 13.12.1995 she was not fully conscious. He deposed that even on the date of recording of her statement on 17.11.1998, the Appellant still had considerable loss of memory; difficulty in concentration and weakness on left side of the body. She still had speed disturbance and limped while walking. PW-3's opinion was

confirmed by the report from G.B. Pant Hospital on a reference by the Claims Tribunal in the year 1999. In the circumstances, it was evident that the Appellant needed the services of an attendant throughout her life. I would award her the compensation on this aspect on the scale of wages of the a semi-skilled worker i.e. ₹ 3,58,776/- (1661/- x 12 x 18).

12. It may be mentioned that the Appellant is a housewife. She was granted a compensation of ₹16,000/- towards loss of gratuitous services which she could not render and a sum of ₹42,000/- towards loss of earnings and ₹1,08,000/- towards future loss of earnings on account of partial permanent disability, thus ₹1,66,000/- was awarded by the Claims Tribunal towards total loss of earnings.
13. Since the Appellant was not working, she did not suffer any damages on account of loss of income. She really required an attendant for which I have separately compensated above. The amount of ₹1,66,000/- would be duplication of the amount awarded towards provision made for an attendant. Thus instead of this, a compensation of ₹3,58,776/- has been awarded.
14. Learned counsel for the Appellant urges that a compensation of just ₹50,000/- has been awarded towards future treatment. No evidence was produced as to the amount which could be spent on future treatment. The Claims Tribunal simply made a guess work. I have no material to interfere on the subjective

discretion of the Claims Tribunal. Thus, I am not inclined to award any enhancement under this head.

15. The overall compensation is thus re-assessed as under:-

Sl. No.	Compensation under various heads	Awarded by this Court
1.	Treatment & Nursing	₹5,57,770/-
2.	Loss of Earning	--
3.	Pain & Agony	₹ 75,000/-
4.	Loss of Marital Bliss	₹ 30,000/-
5.	Future Treatment	₹ 50,000/-
6.	Attendant Charges	3,58,776/-
7.	Loss of Amenities	₹75,000/-
	Total	₹ 11,46,546/-

16. The overall compensation is thus enhanced from ₹ 8,33,770/- to ₹11,46,546/-.
17. The enhanced compensation of ₹3,12,776/- shall carry interest @ 12% per annum from the date of filing of the petition till the date of award and then @ 7.5% per annum from 17.07.2003 upto the date of deposit within six weeks in the name of the Appellant in UCO Bank, Delhi High Court, New Delhi.

18. 70% of the enhanced compensation along with proportionate interest shall be held in fixed deposit for a period of two, four, six and eight years.
19. 30% of the enhanced compensation along with proportionate interest shall be released to the Appellant forthwith
20. Appeal is allowed in above terms.

(G.P. MITTAL)
JUDGE

MAY 18, 2012
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