

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

FAO No. 2539 of 1994

Date of Decision: February 12, 2015

Rajinderwant Kaur

....Appellant.

Versus

Union of India and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present : Ms. Jagdeep Bains, Advocate,
for the appellant.

None for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J.

Challenge in this appeal is to the Award dated August 10, 1994 passed by Motor Accident Claims Tribunal, Chandigarh (for short, "Tribunal") whereby while disposing of the claim petition preferred under Section 166 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), a sum of ₹55,000/- was awarded on account of injuries sustained by appellant-claimant in a vehicular accident occurred on April 30, 1989, in the area of Sector 27, Chandigarh, due to the rash and negligent driving of bus belonging to Chandigarh

Transport Undertaking bearing registration No. CHW 8339. Through the instant appeal, appellant-claimant sought modification of award by way of enhancement of compensation.

2. The impugned award has been assailed by learned counsel for appellant contending that Id. Tribunal while awarding compensation has not taken into consideration the fact that appellant is permanently injured in as much as she has lost her memory due to head injury. She is not fit for house hold working due to permanent nature of injury and a regular female servant is regularly employed. She remained under treatment continuously for 19 months from May, 1990 to November 1991. At the time, she also remained unconscious for about 6 weeks. Even during her treatment in the hospital, she developed diabetes insipidus and bilateral parotitis with left parotid abscess. All these developed deceases coupled with the fracture in the right ribs as well as fracture of left clavicle bone caused mental as well as physical pain and agony. The Id. Tribunal has only awarded a sum of ₹30,000/- on account of pain, discomfort and inconvenience suffered by appellant-claimant and a sum of ₹25,000/- on account of medical treatment which is on lower side and cannot be termed to be either just or adequate, which deserves to be enhanced.

3. This Court has given a deep thought to the aforesaid submission made by learned counsel for appellant and has also gone through the impugned award.

4. Undisputedly, appellant-claimant received injuries due to rashness and negligence on the part of bus No. CHW 8339 driven by Pal Singh-respondent No.2 and the findings in this regard recorded by Id. Tribunal has not been challenged either by driver or owner of the offending bus.

5. Now, the question which remains for determination is whether appellant-claimant deserves enhancement of compensation, so awarded, by Id. Tribunal and in view of the facts and circumstances of the case as well as evidence adduced by appellant before Id. Tribunal, the answer to this question is in negative. Dr. A. Pathak has been examined by appellant-claimant before Id. Tribunal. According to his testimony, appellant-claimant, aged about 53 years was attended by him in OPD, PGI on April 30, 1989. She was also examined by Neurosurgeon of his unit. She was unconscious and there was bleeding from her ear and nose with fracture of ribs on the right side as well as of the left clavicle. She was discharged on June 27, 1989 on improvement of her condition, though, she was advised to visit for follow-up in Neurosurgery OPD and she attended OPD 10 times as per OPD file and attended upto June 13, 1991. He has also proved the entries with regard to the receipt of treatment charges to the tune of ₹9870/- and ₹8870/-.

6. The accident in question pertains to the month of April, 1989 and if the price index of the said year is taken into consideration, an amount of ₹30,000/- awarded on account of pain,

suffering, discomfort and inconvenience and sum of ₹25,000/- on account of medical charges, can be said to be just and proper. As per evidence brought on record by appellant-claimant and her husband Bhagwan Singh, only a sum of ₹17640/- was proved to have been incurred for medical treatment. Yet keeping in view the fact that it is difficult to retain all the bills and primary concern becomes to save the life of the injured, a sum of ₹25,000/- has been awarded by the Id. Tribunal, which is absolutely in consonance with the evidence adduced by appellant-claimant. It cannot be said that amount so awarded by Id. Tribunal is either inadequate or insufficient. This Court is of the considered view that there is no illegality, infirmity or propriety in the impugned award and it calls no interference by this Court.

7. In the light of what has been discussed above, this Court does not find any merit in the instant appeal. As such, the same is dismissed whereby impugned award dated August 10, 1994 is upheld.

8. No order as to costs.

February 12, 2015
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(JASPAL SINGH)
JUDGE