

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

FAO No.2598 of 2006 (O&M)
Date of Decision: 18.03.2015

Shimla DeviAppellant
Versus
Harpal Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present:- Ms. Seema Pasricha, Advocate,
for appellant.

Respondents No.1 and 2 already
proceeded against ex parte.
(vide order dt. 04.09.2014)

Mr. Maninder Arora, Advocate,
for respondent No. 3.

SHEKHER DHAWAN, J (ORAL)

Claimant has challenged the Award dated 22.03.2006 passed by Motor Accidents Claim Tribunal, Mansa (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation of ₹ 1,45,000/-.

2. Brief facts of the case are that claimant sustained injury in motor vehicle accident on 03.09.2004 and she was taken to Kiran Hospital for treatment where she remained as indoor patient for medical treatment.

3. As per the claimant, a sum of ₹ 60,000/- was spent on her treatment. She was of the age of 50 years at the time of accident and was running a Diary Farm and also earning additional sum of ₹ 3,000/- per month from sale of milk. Claimant had sought compensation on account of

loss of earning capacity, reimbursement of medical expenses, special diet and permanent disability.

4. Respondents contested the claim petition thereby denying all the facts pleaded in the claim petition.

5. The Tribunal after considering the material and evidence available on file awarded a total compensation of ₹ 1,45,000/-. A sum of ₹1,25,000/- was awarded on account of permanent disability i.e. qua her left arm, and a sum of ₹ 24,581/- on account of medical treatment and transportation charges.

6. Being dis-satisfied with the compensation amount awarded by The Tribunal the present appeal before this Court.

7. Ms. Seema Pasricha, Advocate, learned counsel for the appellant took the plea that claimant had suffered 70% disability qua her left arm and her life had ruined. She was of the age of 50 years. She was carrying on business of Diary Farming and Tailoring and that fact was proved as per statement of PW-2 Laxmi. She has not been compensated at all on account of special diet and transportation charges. So the awarded amount be enhanced suitably.

8. Mr. Maninder Arora, Advocate, counsel for respondent No.3 took the plea that the Tribunal has already awarded sufficient amount by way of compensation because disability was qua left arm and not qua the whole body. The entire medical expenses have been reimbursed and claimant had already been compensated to the tune of ₹ 2000/- on account of transportation charges as well.

9. Having considered the contentions raised by learned counsel for both the parties this Court is of the considered view that claimant has

been suitably compensated on account of disability as well as medical expenses. The disability to claimant is 70% qua left arm. However keeping in view the age of claimant to be 55 years and the fact that she was carrying on business of Diary Farming and Tailoring business and was contributing to the earnings of the family. Needless to mention that disability to the extent of 70% qua one arm makes the life of an individual helpless and with such disability, person has to live on the mercy of others. The real loss caused to claimant cannot be compensated in terms of money. However, somewhat guess work has to be done to compensate the claimant in such like cases. According to this Court the 'Just Compensation' in this case would be assessed as under :

Sr. No.	Particulars	Amount
1.	On account of pain, suffering and loss of income because of 70% disability qua left arm	₹ 1,50,000/-
2.	Reimbursement of medical expenses	₹ 22,581/-
3.	Transportation charges	₹ 5,000/-
4.	Total	₹ 1,77,581/-

10. The amount of compensation enhanced to ₹ 1,77,581/- from ₹1,45,000/-. Remaining conditions regarding payment of interest and disbursal of the amount shall remain unaltered. The enhanced amount of compensation be deposited by the Insurance Company within 45 days.

11. Accordingly, the appeal is partly allowed.

(SHEKHER DHAWAN)
JUDGE

March 18, 2015

msd