

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.379 of 2006

Date of Decision: 28.08.2015

Shanti Devi

.....Appellant

Vs.

Raj Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vipul Aggarwal, Advocate for the appellant.

Mr.Jarnail Singh Saneta, Advocate for respondent No.2.

Mr.R.C.Kapoor, Advocate for respondent No.3.

RITU BAHRI, J. (ORAL)

The present appeal has been filed by the appellant-claimant seeking enhancement of compensation amount awarded by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 04.08.2005 on account of injuries received by Smt.Shanti Devi, the appellant-claimant in a vehicular accident on 11.06.2001.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 11.06.2001, the appellant-Shanti Devi and her sister Smt.Gayatri Devi came from Delhi to Gurgaon in a maruti car for check up of her eyes at Sanjeevani Hospital, DLF, Phase II, Gurgaon. Maruti car left them at bus stand Chakkarpur. Thereafter, they were going to Sanjeevani Hospital, Gurgaon, walking on katcha portion on due left side of the road. In the meanwhile, Mini Bus bearing registration No.DL-IV/5115 came from behind, being driven by respondent No.1, at high speed, rashly and negligently and hit the appellant, as a result of which she fell down and suffered multiple injuries. The accident took place due to the rash and negligent driving of Mini Bus by respondent No.1. A case bearing FIR No.181 dated 11.06.2001 was registered against the respondent, in

Police Station DLF Gurgaon, regarding the said accident.

COMPENSATION ASSESSED BY THE MACT

On account of injuries suffered by her in the accident, appellant-claimant Shanti Devi filed claim petition under Section 166 of the Motor Vehicle Act, 1988. A perusal of the medico legal report, Ex.P-3 shows that the appellant was having a wound and there was bleeding on left foot, apart from swelling on her left eye and left elbow. She was advised for X-ray for her left foot, left ankle and chest and C.T. Scane of head. However, no X-ray report was produced but PW-2 Doctor Subhash Sindhu categorically stated that the X-ray report of the appellant was seen before assessing the disability. Even in the disability certificate, Ex.P1 it has been specifically mentioned that X-ray report was seen. As per report, she has suffered 7% permanent disability on account of post traumatic mild restriction of left ankle movement, which may slightly reduce with the passage of time. Looking into all these facts and circumstances, the trial Court awarded Rs.17,000/- as compensation to the appellant for permanent disability suffered by her and Rs.6,000/- and Rs.2000/- towards pain and suffering and special diet and transportation expenses respectively. The appellant-claimant was held entitled to a compensation of Rs.25,000/- in the following format:-

HEADS	COMPENSATION
Compensation for permanent disability	Rs.17,000/-
Pain and suffering	Rs.6,000/-
Expenses on Special Diet and Transportation	Rs.2,000/-
Total	Rs.25,000/-

REASSESSED COMPENSATION

Feeling dissatisfied with the impugned award, the injured claimant-appellant came up in this appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of the accident is admitted and proved. Since the accident took place in the year 2001, the compensation is re-assessed keeping in view that the 7% disability which shall pose mild restriction of left ankle movement as under:-

HEADS	COMPENSATION
Compensation for permanent disability	Rs.35,000/-
Pain and suffering	Rs.12,000/-
Expenses on Special Diet and Transportation	Rs. 10,000/-
Total	Rs.57,000/-
Enhanced amount of compensation	(Rs.57,000/-)-(Rs.25,000/-) =Rs.32,000/-

The enhanced amount of compensation of Rs.32,000/- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and Others, 2015(1) SCC 539.** Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present is partly allowed.

(RITU BAHRI)
JUDGE

28.08.2015
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