

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

1.

FAO No. 4965 of 2010(O&M)

Date of Decision: August 13, 2015.

Ram Chand

..... APPELLANT(s)

Versus

Ram Sajjan and others

..... RESPONDENT (s)

2.

FAO No. 4977 of 2010(O&M).

Santosh Kumari

..... APPELLANT(s)

Versus

Ram Sajjan and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Munish Mittal, Advocate
for the appellants.

Mr. Nonish Kumar, Advocate
for respondent No.2.

Mr. Neeraj Khanna, Advocate
for respondent No.3 – Insurance Company.

LISA GILL, J.

This order shall dispose of FAO No.4965 of 2010 (Ram Chand v. Ram Sajjan and others) and FAO No.4977 of 2010 (Santosh Kumari v. Ram Sajjan and others) as both the appeals emanate from a common award dated 10.09.2009 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as, the 'Tribunal').

Learned counsel for the appellants submits that recovery rights have been afforded to respondent No.3 – Insurance Company qua the owner/respondent No.2, therefore, service upon respondent No.1 – driver of the offending vehicle is not necessary for the purposes of these proceedings.

Present appeals have been filed by claimants, Ram Chand and his wife Santosh Kumari, stated to have been injured in an accident which occurred on 26.11.2005. It is stated by appellant – Ram Chand that he alongwith his wife, Santosh Kumari were going from Karnal to village Salaru to attend their duties on his motorcycle bearing registration No. HR-05H-6275. When he was crossing Baldi bye-pass and standing on Karnal-Indri road due to traffic jam, a truck bearing registration No. HR-26A-7706 driven rashly and negligently by respondent No.1 came from the side of Ambala. The said truck struck against their motorcycle due to which both the appellants – Ram Chand and his wife Santosh Kumari sustained injuries.

Disability Certificate, Ex.P13 in respect to appellant – Ram Chand is proved by PW5 Dr. Vinod Kumar. He suffered disability of 10% qua the limb. He suffered a compound fracture of tibia and fibula of the left leg. He was operated upon and remained hospitalized from 26.11.2005 till 09.12.2005. Appellant – Ram Chand was working as Headmaster in Government School, Salaru at the time of accident and was getting a salary of ₹17,110/- per month. Appellant – Ram Chand has been held entitled to a compensation amounting to ₹1,11,844/- by the learned Tribunal, detail of which is as follows:-

i)	Actual expenses of medical bills, hospitalization etc.	Rs.36,844-00
ii)	Loss of income	Rs.40,000-00

iii)	Compensation for permanent disability for 10% at the rate of Rs.2000/- per percentage	Rs.10,000-00
iv)	Compensation for pain and mental agony	Rs.5,000-00
v)	Compensation for transportation and better diet	Rs.5,000-00
vi)	Compensation for general expenses and attendant charges	Rs.5,000-00
	Total	Rs.1,11,844-00

Disability Certificate, Ex.P12 in respect to appellant – Santosh Kumari is proved by PW5 Dr. Vinod Kumar. She suffered disability of 20% qua the limb. She suffered fracture of both upper tibial plates of both the legs and she was operated upon. She remained admitted in the hospital from 26.11.2005 till 09.12.2005. Appellant – Santosh Kumari was working as Headmistress in Government School, Abdullapur at the time of accident and was getting a salary of ₹17,110/- per month. She has been held entitled to a compensation amounting to ₹1,64,785/- by the learned Tribunal, detail of which is as follows:-

i)	Actual expenses of medical bills, hospitalization etc.	Rs.57,785-00
ii)	Loss of income	Rs.72,000-00
iii)	Compensation for permanent disability for 10% at the rate of Rs.2000/- per percentage	Rs.20,000-00
iv)	Compensation for pain and mental agony	Rs.5,000-00
v)	Compensation for transportation and better diet	Rs.5,000-00
vi)	Compensation for general expenses and attendant charges	Rs.5,000-00
	Total	Rs.1,64,785-00

Learned counsel for the appellants submits that a meagre amount of compensation has been awarded by the Tribunal. Keeping in view the serious injuries suffered by the appellants-claimants, they are entitled to a higher amount on account of pain and suffering as well as on account of permanent disability.

Learned counsel for the respondent – Insurance Company submits that sufficient amount of compensation under all the heads has been awarded to the appellants by the Tribunal.

Having heard learned counsel for the parties, it is apparent that the Tribunal has rightly taken the disability of appellants – Ram Chand and Santosh Kumari qua the whole body to be 5% and 10%, respectively and accordingly awarded a sum of ₹10,000/- and ₹20,000/-, respectively on account of permanent disability. There is no loss of earning capacity as far as the present appellants are concerned as they are admittedly Government servants. There is no evidence to prove that they suffered any loss of income for the period they remained hospitalized due to these injuries.

Compensation awarded on account of medical expenses has been rightly assessed as proved on record. However, compensation on account of pain and suffering and on account of attendant charges deserves to be enhanced.

Accordingly, compensation on account of pain and suffering is enhanced to ₹30,000/- each instead of ₹5,000/- in respect to each of the appellants. Compensation on account of attendant charges is enhanced to ₹10,000/- each instead of ₹5,000/- in respect to each of the appellants. Appellant – Ram Chand is thus entitled to a total compensation of ₹1,41,844/- instead of ₹1,11,844/- and appellant – Santosh Kumari to ₹1,94,785/- instead of ₹1,64,785/-.

Enhanced compensation shall carry interest at the rate of 7.5 per cent per annum from the date of filing of the petition till realization. Amount already awarded by the Tribunal shall stand deducted.

With the abovesaid modification in the amount of compensation,
both the appeals are disposed of.

August 13 , 2015.
'om'

(LISA GILL)
JUDGE