

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

FAO No.2371 of 2012.

Date of Reserve: 10.09.2015.

Date of Pronouncement: 11.09.2015.

Tej Kaur

....Appellant.

VERSUS

Hari Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Argued by: Mr. Ashok Jindal, Advocate for the appellant.

Respondents No.1 and 2 already proceeded against exparte
vide order dated 05.12.2012.

Mr. Lalit Garg, Advocate for respondent No.3.

SNEH PRASHAR, J.

1. The appellant-claimant has filed this appeal for enhancement of the amount of compensation awarded to her by Motor Accident Claims Tribunal, Bathinda (hereinafter referred to as, “the tribunal”) vide award dated 06.02.2012 passed in MACT case No.10 of 30.04.2011 titled “Tej Kaur vs. Hari Singh and others”
2. Appellant Tej Kaur met with a vehicular accident on

03.04.2011 and suffered multiple, serious and grievous injuries. On the basis of statement of Parminder Singh, an eyewitness, First Information Report No.24 dated 11.04.2011 under Section 279/337/338 of the Indian Penal Code was registered against respondent No.1 Hari Singh at Police Station Dialpura. For treatment, the petitioner was admitted in Dayanand Medical College Hospital, Ludhiana. Her left leg was amputated upto thigh and she remained hospitalized w.e.f. 03.04.2011 to 11.05.2011 and 13.05.2011 to 13.06.2011. She filed a petition claiming compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, the Act of 1988”) impleading the driver, owner and insurer of bus no.PB-04K-9653 which was responsible for causing the accident due to its rash and negligent driving. Learned tribunal vide award dated 06.02.2012 allowed compensation to the tune of Rs.8,97,000/- alongwith interest at the rate of 6% per annum from the date of filing of the petition till realization. A direction was given that an amount of Rs.3,04,250/- shall be directly paid to Nevadak Prosthetic Centre, Chandigarh, if an artificial leg is supplied to the appellant. Respondents No.1 to 3 were held jointly and severally liable for payment of the compensation amount.

3. Assailing the award dated 06.02.2012 passed by learned tribunal, this appeal has been filed by the appellant for enhancement of the compensation. Learned counsel for respondent No.3 stated that it does not dispute liability of the insurer (respondent No.3-insurance company) to indemnify the insured.

4. The submissions made by Mr. Ashok Jindal, learned counsel

representing the appellant and Mr. Lalit Garg, learned counsel representing respondent No.3 have been heard.

5. Learned counsel for the appellant submitted that compensation of Rs.1,25,000/- awarded under the head of pain and sufferings, which was bifurcated into two heads, (i) admission in hospital for two months and 10 days; and (ii) due to amputation of leg (50,000/- + 75,000/-) is inadequate. The appellant is a housewife. Apart from the fact that she has become incapable of doing household work, for her own personal requirements also she has become dependent on her family members. According to the disability certificate Ex.C1, proved by CW1 Dr. Ajay Gupta of Civil Hospital, Bathinda, the appellant had become permanently disabled to the extent of 80%. On that count also, only an amount of Rs.1,60,000/- was awarded to the appellant. No amount was awarded for expenditure on attendant which the appellant required during period of her hospitalization and follow up treatment. In fact, she will require an attendant during her whole life due to amputation of her leg and the disability suffered by her.

6. Indeed, the appellant remained hospitalized for a period of 2 months and 10 days. The injuries suffered by her were so serious that her left leg was amputated from mid thigh. There were other serious injuries also on her person. She is a housewife aged 64 years and has become disabled to the extent of 80%. It cannot be denied that by running household work she had been rendering services to her family which she will not be able to continue to discharge. Rather, as stated by her she will now require assistance from her family members throughout life.

Considering all said facts, the compensation of Rs.50,000/- awarded to the appellant under the head of pain and suffering on account of admission in hospital for 2 months and 10 days is increased to Rs.60,000/-.

7. For the disability assessed as 80% vide disability certificate Ex.C1 suffered by the appellant, learned tribunal awarded Rs.1,60,000/-. On account of disability suffered by the appellant, she has stated that she has become bed ridden and is dependent on her family members for her day to day necessities. The value of the services rendered by her to her family at the age of 64 years, which she will no longer be able to discharge and above that the assistance she will require from her family members during her life time being 80% disabled, cannot be less than Rs.3000/- per month or Rs.36,000/- per annum. Applying the multiplier of 7 in view of age of the appellant, the amount comes to Rs.2,52,000/-. Accordingly, the amount of Rs.1,60,000/- awarded to the appellant for the disability suffered by her is enhanced to Rs.2,52,000/-.

The amount of Rs.75,000/- awarded due to amputation of leg i.e. disaggregation and loss of enjoyment of life is considered as adequate.

8. The appellant had to be admitted in the hospital twice and she must have attended the hospital during follow up treatment also. No evidence was led by the appellant to prove that she had engaged some attendant to look after her. In any case, during her hospitalization her family members, who were serving her, must have spent good amount on their boarding and lodging etc. As such, the amount of Rs.10,000/- under the head of transportation is enhanced to Rs.25,000/-.

In that manner, the appellant is held entitled to compensation of Rs.10,14,000/- (Rs.8,97,00/- awarded by the tribunal + Rs.1,17,000/- enhanced by this Court).

With the above modification in the award dated 06.02.2012, the appeal stands disposed of. The insurance company to deposit the enhanced amount of compensation within 45 days of receipt of copy of this order failing which it shall be liable to pay interest on the enhanced amount from the date of order till realization at the rate of 7.5% per annum.

(SNEH PRASHAR)
JUDGE

11.09.2015.
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