

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

**FAO No.4337 of 2012 (O&M)
Date of Decision: July 21, 2015**

Hardeep Kaur and others

.... Appellant

vs.

Shamsher Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Karamjit Singh Takhtupura, Advocate for
Mr. Premjit Singh Dhaliwal Takhtupura, Advocate
for the appellants.

Mr. Amninder Preet, Advocate for the respondent.

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

The claimants-appellant have filed this appeal for enhancement of compensation against the Award dated 14.01.2012 passed by the Motor Accident Claims Tribunal, Moga (in short 'the Tribunal').

Brief facts of the case are that on 01.03.2009, claimant-appellant Hardeep Kaur accompanied by her minor children, namely, Jaswinder Singh (son) Ramandeep Kaur (daughter) along with her husband Jagpal Singh were travelling in a car bearing registration No.PB-02AC-7939. Their car was hit by a jeep bearing registration No.PB-02-7677. As a result of the accident, the appellants-claimants sustained injuries. Claimant-appellant No.1 has become disabled to

the extent of 40% as she is stated to have lost her left eye. The Tribunal awarded ₹45,000/- to Hardeep Kaur, ₹30,000/- to Jaswinder Singh and ₹5,000/- to Ramandeep Kaur on account of injuries sustained by them in the said accident.

The claimants-appellants are not satisfied with the compensation and have come up in the present appeal.

I have heard learned counsel for the parties and have also carefully gone through the case file.

In this case, claimant-appellant No.1 Hardeep Kaur remained admitted in the hospital for 15 days i.e. w.e.f. 01.03.2009 to 16.03.2009. For which, a compensation of ₹3,000/- has been awarded on account of pain and suffering and another sum of ₹2,000/- has been awarded as costs of special diet and nursing.

I am of the view that the compensation awarded under both the heads is inadequate.

For 15 days admission, compensation @ ₹2,000/- per day is assessed on account of pain and suffering, special diet and nursing etc., which comes to ₹30,000/-. Therefore, compensation on account of pain and suffering, special diet and nursing is enhanced by ₹25,000/-.

So far as the disability is concerned, the Tribunal has observed that none of the doctors, who was member of the Medical Board, was examined. Therefore, the disability certificate (Ex.P61) was not considered. It was also observed that it is not proved that Hardeep Kaur had suffered disability because of the accident.

To prove the disability, Ms. Seema Puri, Clerk from the Civil Hospital, Moga had appeared as PW5. She had brought the record and also identified the signatures of the doctors, who had issued the disability certificate (Ex.P61). The disability certificate bearing the photograph of Hardeep Kaur is dated 03.06.2009 i.e. about three months after the accident.

The claimant-appellant Hardeep Kaur herself stepped into the witness box as PW3. Her husband Jagpal Singh, eye witness of the accident also appeared as PW2 and stated that Hardeep Kaur had lost her eye sight in the accident and has become disable upto 40% .

The Claimant-appellant No.1 had also produced the medical bills (Ex.P-21 to Ex.P-60) on file regarding the artificial eye, which indicate that the injuries sustained in the accident led to the loss of vision. Otherwise, there is nothing on file to show that claimant-appellant No.1 had lost vision of her left eye on some other account or illness.

Under the Motor Vehicular Act, 1988, the Tribunal is to conduct the inquiry. It is not be tried as a civil case nor as a criminal trial. Therefore, some standard of proof is not required. At the time, when it was produced, no objection was raised by the opposite party regarding its admissibility. Therefore, the disability certificate (Ex.P61) was duly proved. Therefore, disability certificate (Ex.P61) is admitted in evidence and is to be considered.

As the vision of left eye of claimant-appellant Hardeep Kaur is lost, who was a house wife, therefore, she needs artificial eye. She has also lost her enjoyment of life to some extent, for which, a consolidate sum of ₹1,00,000/- is awarded. Therefore, the compensation qua claimant-appellant Hardeep Kaur is enhanced by ₹1,25,000/-.

So far as the case of Jaswinder Singh is concerned, compensation awarded to the tune of ₹30,000/- has not been challenged.

Similarly, for the injuries received by Ramandeep Kaur, compensation to the tune of ₹5,000/- was awarded. Out of which ₹2,000/- for pain and suffering, another sum of ₹2,000 for costs of treatment and ₹1,000/- as costs of special diet were awarded. But nothing has been awarded for attendant charges.

I am of the view that compensation to the tune of ₹5,000/- in case of Ramandeep Kaur, is on lower side. Therefore, it is enhanced to ₹10,000/-. In this way, Ramandeep Kaur is entitled to additional sum of ₹5,000/-.

The enhanced amount of compensation shall be paid with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

The present appeal is allowed accordingly to the abovesaid extent.

July 21, 2015
sarita

(KULDIP SINGH)
JUDGE