

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.1597 of 2013 (O&M)

Date of decision: 12.03.2015

Kiran

..... Appellant

versus

Dev Raj and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Shokeen Singh Verma, Advocate for the appellant
Mr. Rakesh Kumar, Advocate for respondent Nos. 1 and 2
Mr. Rajneesh Malhotra, Advocate for respondent No. 3

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)

This is the claimant's appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (for brevity, 'the Tribunal') on 27.8.2012.

Smt. Kiran, aged about 38 years, a housewife, met with a motor vehicular accident on 8.7.2010, while she was standing on the right side of the road on *katcha* berm. As a result of the accident, she received serious injuries and was removed to the civil Hospital, Saroya and then to Apex Super Speciality Hospital, Nawanshahr, where she remained admitted from 8.7.2010 to 24.7.2010.

Thereafter, she was removed to Dayanand Medical College Hospital, Ludhiana, where she remained under treatment from 24.7.2010 to

6.10.2010. It is stated that she received injuries on her head, for which, she had to undergo brain surgery. She had multiple fractures on her right leg. Even after the treatment, she is still under coma.

The Tribunal, after recording the evidence of the parties, awarded Rs.8,23,863/- on account of medical bills Rs.50,000/- on account of future medical expenses and Rs.50,000/- on account of pain and suffering.

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

Learned counsel for the appellant has stated that no compensation was awarded on account of loss of income, for the nursing attendant as well as for the disability.

The perusal of award shows that in fact there is an omission to award compensation under these heads. As the claimant is in deep coma, since the date of accident i.e. year 2010 and there is unlikelihood of any recovery, therefore, condition of the claimant has to be equated with that of a dead person. In these circumstances, she is to be compensated on the same footing as compensation on account of death.

It being so, no separate compensation for disability is to be awarded. As per Lata Wadhwa v. State of Bihar and others, 2001 (8) SCC 187, the notional income of the claimant has to be taken Rs.3000/-. Taking into consideration her age i.e. 38 years, multiplier of 15 is applied, so the amount of compensation comes to Rs.5,40,000/-. For the attendant, Rs.3000/- per month for the next ten years are allowed and compensation comes to Rs.3,60,000/-.

Since there is remote possibility that the claimant may survive after ten years, therefore, in place of monthly payment, the entire amount of Rs.3,60,000/- be paid to the claimant. For the future medical expenses, a consolidated sum of Rs.one lac in place of Rs.50,000/- is allowed. A total amount of enhanced compensation comes to Rs.ten lacs. The enhanced compensation shall also carry the interest @ 6% per annum, as awarded by the Tribunal.

The appeal stands disposed of.

12.03.2015*gk***(Kuldip Singh)
Judge**