

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

FAO No.350 of 2003
Date of decision: 12.02.2016

Bhupinder Kaur Through LRs

..... Appellant

VERSUS

Balwinder

..... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Rajesh Bansal, Advocate,
for the appellant.

Mr. Suvir Dewan, Advocate,
for respondent No.4-Insurance Company.

1. Whether reporters of local papers 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 ?

K.KANNAN, J. (ORAL)

1. The appeal is for enhancement of compensation for injury suffered in an accident by which the appellant was said to have suffered a patella bone fracture on the left leg and the doctor who treated her gave evidence that her physical disability to the extent of 30% attributed to the limitation of movement of left joint and inability to squat and sit cross legged. The cross-examination of the doctor admitted that the disability could be improved to some extent with physiotherapy and medication. He denied a suggestion that the disability as a whole body would come to 12%.

The petitioner stated that she had undergone surgery and she remained

admitted in the hospital for a period of 26 days. She was said to have visited

about 10 to 15 times to the hospital and spent ₹1500 to ₹1600 on her each visit that included transportation, doctor's fee etc. She also gave evidence to the effect that she remained on bed for about one year. She also took treatment under different doctors. No document was exhibited as evidence and after her cross-examination the Court assessed total expenses of ₹40,000/-.

2. The manner of assessment is grossly inadequate and I wanted to see if better details were available for proper assessment. The counsel is unable to assist me with any better details. The original file has been burnt. I do not have the benefit of all documents which was said to have been brought before this Court and assigned as Mark 'A' to Mark 'E'. Considering that she had patella bone fracture and claimed that she was in the hospital for about a month and considering further that the accident was of the year 2001, I will estimate the medical expenses as ₹25,000/- against the calculation made through her assertion and she spent ₹80,000/- to ₹90,000/-. I will also make possible an additional amount of ₹10,000/-, towards transportation and provide for ₹5,000/- towards special diet and attendant charges. The fracture at the knee is invariably very painful and, therefore, I assess ₹25,000/- as compensation for pain and suffering and increase the compensation of claimant for disability at ₹60,000/-.

3. I do not have particulars about the petitioner's assertion that stated to be she was Kabbadi player. Her own chances of representing the country were said to have been lost. It is difficult for me to assess the loss of earring capacity, but I still make for her a possible assessment of ₹25,000/- as going towards the said head. The various heads of claimant are tabulated as under:-

Srl. No.				
1	Date of accident		18.02.2001	At 8.30 pm
2	Age:		26 years	
3	Period of hospitalization			
4	Occupation and income as claimed in petition			
5	Heads of claim		Tribunal	High Court
			Amount (₹)	Amount (₹)
6		Loss of income from to		
7		Medical expenses		
8		Medicines		
9		Hospital charges		25,000/-
10		Attendant charges		5,000/-
11		Special diet		
12		Transportation		10,000/-
13		Pain and suffering		25,000/-
14		Disability (30%) & Compensation		60,000/-
15		Income as assessed by tribunal (a)		
16		% Loss of earning capacity (b)		25,000/-
17		Multiplier (c)		
18		Loss of earning capacity (a x b x c)		
19		Reduction in life expectancy		
20		Loss of prospect of marriage		
		Total	40,000/-	1,45,000/-

4. The amount payable as compensation shall be ₹1,45,000/- and the additional amount over what has already been provided by the Tribunal shall also attract interest @7.5% from the date of petition till the date of payment. The liability shall be on the Insurance Company.

5. The award is modified and the appeal is allowed on the above terms.

12.02.2016
Bhumika

(K.KANNAN)
JUDGE