

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

FAO No.1779 of 1996.

Date of Decision: 17.02.2016.

Krishna Devi

....Appellant.

VERSUS

New Fatehgar Sahib Sarhind Bus Transport Co. Pvt. Ltd. and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sachin Mittal, Advocate for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.6-insurance company.

SNEH PRASHAR, J.

The present appeal has been filed by the claimant-appellant, seeking enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Ambala (for short, “the Tribunal”) vide award dated 04.01.1996 passed in MACT Case No.112 of 1992, on account of the injuries sustained by her, in a motor vehicular accident.

The facts that emerge from the record are as under:-

On 08.04.1992, claimant Krishna Devi boarded Bus bearing registration No.PB-10B-9997 from Ambala for going to Ludhiana. When the bus reached near Devi Nagar, a Truck bearing registration No.PBN-

9519 (hereinafter referred to as the “offending truck”) being driven rashly and negligently by its driver Mohinder Singh (respondent No.4) came from the opposite side and hit into the bus. Because of the impact, the passengers travelling in the bus got injured. The claimant also sustained injuries and her right arm was chopped off.

A petition claiming compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) filed by the appellant against driver, owner and insurer of the offending truck was allowed by the Tribunal and an amount of Rs.1,10,000/- alongwith interest at the rate of 12% per annum from the date of filing of the petition till realization of the amount was awarded to the appellant as compensation.

Feeling unsatisfied with the award dated 04.01.1996, the appellant preferred the instant appeal.

The submissions made by Mr. Sachin Mittal, learned counsel representing the appellant and Mr. Suvir Dewan, learned counsel representing respondent No.6 have been heard and record perused.

Learned counsel for the appellant contends that the appellant had suffered multiple serious and grievous injuries. It was stated by her and was also proved by the medical evidence that her right hand got completely crushed and was amputated. As noticed by learned Tribunal in Para No.15 of the award PW1 Dr. Jiwan Parkash, Orthopaedician, proved the disability certificate Ex.P23 according to which the disability of the appellant was assessed as 84%. He added that the appellant might have spent Rs.35,000/- on her treatment and the expenditure on the artificial limb is from

Rs.10,000/- to Rs.1,00,000/-. However, learned Tribunal awarded only Rs.80,000/- on account of permanent physical disability. Also only Rs.5,000/- was awarded for the pain and suffering undergone by her. Rs.15,000/- for treatment and conveyance charges and Rs.10,000/- for other miscellaneous expenses were also on extremely lower side.

Learned counsel for the respondent-insurance company, who placed on file copy of the statement of the appellant recorded during trial by the Tribunal, which was taken on record, though fairly conceded that the right hand of the appellant was amputated but argued that as per her own admission she is a household lady and the amount awarded by the Tribunal is justified and adequate.

Perusal of the statement of the appellant shows that she had taken treatment at C.M.C. Hospital, Ludhiana. Her right hand was amputated because it got completely smashed during the accident. In her cross-examination, she stated that she is married but has no child. Her husband is engaged in business of socks knitting. Analyzing the medical evidence produced by the appellant as well as her own testimony the findings of learned Tribunal with regard to the disability suffered by her and expenses incurred on treatment are as under:-

“From the evidence discussed above, it becomes quite clear that the claimant has not explained as to how she is entitled for the amount of Rs.Five lac as compensation. In her claim-petition she has alleged that she incurred an expenditure of Rs.20,000/- on her treatment whereas the doctor from whom she got the treatment deposed that the patient might have spent

Rs.30,000/- on her treatment and surprisingly when she herself appeared in the witness box deposed that she incurred expenses of Rs.one lac on her treatment. There is neither any account regarding the treatment nor any record to show that she was having the earning of Rs.1000/- per month from the work of stitching etc. Leaving aside all these facts, the fact remains that the claimant suffered injuries in the accident wherein her right arm was amputated and the disability as per certificate Ex.P23 is 84% which even otherwise stands proved from the statement of Dr. Jiwan Parkash PW1. She must have also suffered a lot of pain and sufferings. At the time of accident she was 43 years of age as is clear from the claim-petition which also stands proved from the statement of PW2 Krishna Devi. In view of the permanent physical disability, the claimant is also to suffer a lot regarding her future career”.

Recording the above observations, learned Tribunal allowed Rs.15,000/- as compensation for expenses on treatment and conveyance charges. As noticed from the findings of learned Tribunal the doctor stated that she must have spent around Rs.30,000/- on her treatment. She also must have spent some amount on her own transportation as well as on transportation and boarding-lodging of her family members who were attending on her and therefore, the amount of Rs.15,000/- awarded by the Tribunal for treatment and conveyance charges is enhanced to Rs.50,000/-.

The disability of the appellant on account of amputation of her right hand was assessed as 84%. Because of amputation of the hand it would naturally be very difficult for her to perform household duties. She stated that she was earning Rs.1000/- per month which means her annual

income was Rs.12,000/-. Her age was 45 years when she appeared in the witness box on 12.08.1995. The accident had taken place on 08.04.1992 which means at that time she was 43 years old. Considering her age and the permanent physical disability suffered by her multiplier of '15' is appropriate and accordingly an amount of Rs.1,80,000/- is awarded as compensation on account of the disability suffered by her. The amount of Rs.5,000/- allowed on account of pain and sufferings is enhanced to Rs.50,000/- and the amount of Rs.10,000/- for other miscellaneous expenses is enhanced to Rs.20,000/-.

The claimant-appellant is held entitled to enhanced compensation of Rs.1,90,000/- as indicated above. The amount shall be paid within a period of 45 days from the date of receipt of certified copy of this judgment, failing which, the appellant shall be entitled to interest at the rate of 7.5 per annum from the date of filing of the appeal till its realization.

In view of the above, the present appeal is partly allowed and the impugned award is modified to the above extent.

(SNEH PRASHAR)
JUDGE

17.02.2016.
jitender