

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

FAO No.320 of 1999 (O&M).

Date of Decision: 24.02.2016.

Shikha

....Appellant.

VERSUS

M/s Sagar Goods Carrier and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Yogesh Saini, Advocate for the appellant.

Mr. Suman Jain, Advocate for respondent No.3.

SNEH PRASHAR, J.

By way of this appeal appellant Shikha seeks enhancement of compensation awarded to her by Motor Accident Claims Tribunal, Faridabad (for short, “the Tribunal”) vide award dated 03.09.1998 passed in MACT Petition No.125 of 1993.

Appellant Shikha suffered injuries during a vehicular accident that took place on 11.07.1992. She alongwith her family members was travelling in a maruti van No.DDV-441 which had to be parked on the katcha berm beside the road as one of its tyre got punctured near Sunflame factory on Mathura Road when they were returning from Vrindavan to Delhi. She and her family members had alighted from the maruti van when another maruti car No.DL-4CB-1467 came and struck into the stationary

maruti van. Her father came to pick up the stranded family members in his maruti car No.DL-5C-441. In the meantime, a truck bearing registration No.CPO-7511 (hereinafter referred as to “the offending truck”) being driven rashly, negligently and in a high speed, came from the side of Faridabad and struck into the two accidental vehicles. The driver could still not control the truck and it ran over the claimant and her family members killing four persons at the spot and causing injuries to the others.

The claimant-appellant filed a petition invoking the provisions of Sections 166 and 140 of the Act of 1988 against driver, owner and insurer of the offending truck in order to claim compensation for the injuries sustained by her during the accident. The petition was allowed and an amount of Rs.65,000/- was awarded to her as compensation.

Feeling unsatisfied with the award dated 03.09.1998, the claimant-appellant preferred the instant appeal.

The submissions made by Mr. Yogesh Saini, learned counsel for the appellant and Mr. Suman Jain, learned counsel for respondent No.3-insurance company have been heard and record perused.

It was argued on behalf of the appellant that she suffered serious head injuries and fracture of right clavicle and fracture on first metatarsal of the left foot. She remained hospitalized at Holly Family Hospital, New Delhi w.e.f. 12.07.1992 to 04.08.1992 and remained unconscious for 21 days. Even after discharge from the hospital she had to take follow up treatment for a long period. She spent more than Rs.50,000/- on her treatment. The learned Tribunal neither allowed the total expenses

incurred on the treatment nor awarded any amount spent on transportation, attendant, special diet etc.

In Para No.45 of the award, learned Tribunal taking note of the medical bills of Holly Family Hospital, New Delhi, produced by the appellant observed that from the documentary evidence it is established that a sum of Rs.30,360/- was spent on treatment of the appellant.

On the other hand, learned counsel for respondent No.3- insurance company pointed out that during the trial of the claim petition the appellant did not step into the witness box. Only the medical bills were produced to prove that she had suffered injuries and had taken treatment for the same. Learned counsel contended that considering the documents, learned Tribunal had awarded adequate compensation.

Indeed, the appellant did not appear in the witness box but the medical documents tendered in evidence do support the contention of learned counsel for the appellant that she suffered multiple injuries during the accident and remained hospitalized for about 24 days at Holly Family Hospital, New Delhi. Considering the fact that in addition to amount of Rs.30,360/-, a lot of other sundry charges may also have been incurred, an amount of Rs.40,000/- in lump sum was awarded as compensation on account of treatment charges. The amount awarded is adequate and calls for no intervention.

An amount of Rs.25,000/- was allowed for the pain and suffering undergone by the appellant. Since no medical document was produced to prove the nature of injuries sustained by the appellant, the

amount awarded under the head of pain and suffering is also adequate. However, it is established that the appellant remained hospitalized for 24 days, during that period even if she was being taken care of by her family members, they must have spent good amount on their transportation, boarding-lodging. Some amount on the transportation of the appellant also must have been spent. Considering the said facts, an amount of Rs.20,000/- is allowed for expenditure on transportation and attendant. For recovering from the injuries, the appellant required nutritious diet and on that count a further amount of Rs.5,000/- is allowed.

In the above premise, the appellant-claimant is held entitled to compensation of Rs.90,000/- as indicated above.

Accordingly, the appeal filed by the appellant-claimant is partly allowed and the award dated 03.09.1998 passed by the Tribunal is modified. The appellant-claimant is held entitled to enhanced compensation of Rs.25,000/- in addition to the amount of Rs.65,000/- awarded by the Tribunal. The enhanced amount of compensation shall be deposited by respondent No.3- insurance company within 45 days from the date of receipt of certified copy of this judgment failing which the appellant-claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal till realization.

(SNEH PRASHAR)
JUDGE

24.02.2016.
jitender