

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5676 of 2004

Date of Decision.18.02.2016

Baljinder Kaur

.....Appellant

Vs.

Sher Singh and another

.....Respondents

Present: Mr. Karan Nehra, Advocate
for the appellant.

Mr. D.K. Dogra, Advocate
for respondent No.2.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J.

1. The appeal is for enhancement of compensation for injuries suffered by a girl aged 19 years in a motor accident that took place on 09.05.2002. She was travelling in a metador van bearing registration No.DLIV/1403 driven by respondent No.1 returning from school to her village. It was alleged that the vehicle turned turtle due to rash and negligent driving of respondent No.1 and all the occupants in the vehicle received injuries. The claimant was admitted to Civil Hospital, Dhuri on 09.05.2002 from where she referred to Rajindra Hospital, Patiala and still later remained admitted in Dayanand Medical College and Hospital at Ludhiana till the date of discharge on 12.07.2002. She suffered L1 fracture in spine with cord injury and according to PW1 Dr. R.K. Kaushal, she had sustained fracture of spinal cord due to which she had complete

weakness of both lower limbs with loss of bladder and bowel control. She was operated on 10.05.2002 and staffi plating was done for fusion of the spinal column. She had been advised to periodical consultancy and upto October 2002, she had no feeling of passing of urine and stool. PW3 Dr. Karamjit Singh proved the medical certificate Ex.P3 saying that there is complete paraplegia with 100% disability and suggested that there is no recovery possible.

2. The claimant was a young student of 19 years and the Tribunal while awarding the compensation took the income of the injured at ₹2000/- per month, applied a multiplier of 16 and provided for ₹3,94,000/- for future loss of income, loss of amenities and marriage prospect apart from ₹1,50,000/- for pain and suffering, ₹50,000/- for medical expenses, ₹72,000/- for attendant charges and ₹3450/- for transportation charges and awarded a total compensation of ₹6,69,450/- with interest @9%.

3. There is sure prospect of increase in compensation and while doing so, I will retain the income taken by the Tribunal at ₹2000/- per month but adopt a multiplier of 18 instead of 16 suitable to the age of the injured as per the decision of Supreme Court in Sarla Verma Vs. DTC 2009(6) SCC 121 and provide for ₹4,32,000/- towards loss of earning capacity. I will retain the amount already assessed by the Tribunal for pain and suffering at ₹1,50,000/- and will also retain the medical expenses provided by the Tribunal at ₹50,000/-. It was in evidence that she was not having sense of passing stool and urine and an attendant was required every time to take care of the needs of the patient and for turning of sides for every two hours. I will take the

average expenditure for an attendant on the claimant to be ₹1800/- per month and then apply a multiplier of 18 to provide for attendant charges at ₹3,88,800/-. I will provide ₹20,000/- for special diet and ₹10,000/- for transportation charges. I will also provide for ₹1,00,000/- for loss of prospect of marriage and another ₹50,000/- for reduction in life expectancy. I will also provide for ₹ 1 lac for future medical expenses and loss of amenities keeping in view the fact that she must have required future medical treatment and physiotherapy. The various heads of claims are tabulated as under:-

INJURY CASES			
Age	19 years		
Period of Hospitalization 09.05.2002 to 23.05.2002			
Occupation	Student		
	Heads of claim	Tribunal	High Court
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Loss of income		
2	Medical expenses		
(i)	Medicines	50,000	50,000
(ii)	Hospital Charges		
(iii)	Attendant Charges	72,000	3,88,800
(iv)	Special Diet		20,000
(v)	Transport	3450	10,000
3	Pain & Suffering-per fracture/per surgery	1,50,000	1,50,000
4	Disability	100%	100%
5	Loss of earning capacity	100%	100%
	income	2000	2000
	Multiplier	16	18
	% of loss of earning capacity	3,94,000	4,32,000
6.	Loss of amenities and future medical expenses		1,00,000
7	Reduction in life expectancy		50,000
8	Loss of prospect of marriage		1,00,000
	Total	6,69,450	13,00,800

3. The total compensation payable shall be ₹13,00,800/-. The amount in excess 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 as determined by the Tribunal.

4. The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(K. KANNAN)
JUDGE

February 18, 2016
Pankaj*