

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

(1)

**FAO No.367 of 2005 (O&M)
Date of Decision: 16.08.2016**

Paramjit Kaur

.....Appellant

Versus

General Manager, Punjab Roadways, Taran Taran & others

....Respondents

(2)

FAO No.368 of 2005 (O&M)

Daljit Kaur

.....Appellant

Versus

General Manager, Punjab Roadways, Taran Taran & others

....Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vijay Lath, Advocate
for the appellant(s).

Mr. Ajaib Singh, Addl. A.G., Punjab
for respondents No.1 and 2.

DARSHAN SINGH, J (ORAL)

CM-1687-CII-2005 in FAO No.367 of 2005

This application has been moved for making good the
deficiency of Court fee.

The application is allowed and the deficiency of Court fee is

made good.

CM-1688-CII-2005 in FAO No.367 of 2005

CM-1689-CII-2005 in FAO No.368 of 2005

These applications have been moved for condoning the delay of 36 days and 37 days in re-filing the appeals.

Heard on the applications.

In view of the reasons mentioned in the applications, the same are allowed and the delay of 36 days and 37 days in re-filing the appeals is condoned.

Main Case

This judgment shall dispose of both the appeals mentioned above as both the appeals have arisen out of the same accident dated 21.01.2002 and award dated 02.08.2004 passed by the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as "the Tribunal").

2. FAO No.367 of 2005 has been preferred by appellant-claimant, Paramjit Kaur, who has been awarded compensation to the tune of Rs.20,000/- and FAO No.368 of 2005 has been filed by appellant-claimant, Daljit Kaur, who has been awarded compensation to the tune of Rs.70,000/- on account of injuries suffered by them in a motor vehicular accident which took place on 21.01.2002.

3. Both these claim petitions have been preferred by the appellants-claimants for enhancement of the amount of compensation.

4. I heard Mr.Vijay Lath, Advocate, learned counsel for

the appellants, Mr. Ajaib Singh, Addl. A.G., Punjab, for respondents No.1 and 2 and have carefully gone through the record of the case.

5. Learned counsel for the appellants contended that the appellant-claimant, Paramjit Kaur was a housewife. She suffered permanent disability to the extent of 15% but the learned Tribunal has awarded total Rs.20,000/- as compensation. She has not been awarded the compensation separately for permanent disability, treatment and other heads. Thus, he contended that there was no basis for awarding only Rs.20,000/- as compensation to the claimant inspite of the fact that she has suffered serious injuries.

6. He further contended that Daljit Kaur, appellant-claimant of FAO No.368 of 2005, was of 9/10 years of age. She has suffered 40% disability due to audiological handicap, which was permanent in nature. He contended that the learned Tribunal has only awarded Rs.70,000/- as compensation in lump sum which is highly inadequate.

7. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded just compensation keeping in view the nature of injuries suffered by the appellants-claimants and the impugned award does not call for any interference.

8. I have duly considered the aforesaid contentions.

9. The learned Tribunal has awarded compensation in lump sum to both the appellants-claimants.

10. Firstly, I take up FAO No.367 of 2005 filed by

Smt.Paramjit Kaur. As per the evidence on record, she has suffered 15% disability due to slight restriction of both the ankle and knee joints. This fact is not disputed that she was a housewife. In order to assess the compensation on account of permanent disability, we have to take into consideration the notional income of the claimant. In view of the fact that the appellant-claimant, Paramjit Kaur was a housewife, the value of her services is taken to be Rs.3,000/- per month i.e. Rs.36,000/- per annum. She has suffered 15% permanent disability due to restriction of both ankle and knee joints. As per the law laid down by the Hon'ble Apex Court in case **Raj Kumar Vs. Ajay Kumar & anr., 2011(2) RCR (Civil) 101**, whole of the percentage of disability cannot be taken into consideration, only the functional disability which actually affects the earning capacity of the claimant has to be taken into consideration to compute the compensation. In the instant case, 8% of the disability of the claimant shall be taken to be the functional disability affecting the future earning capacity of the claimant. She was in the age group of 30 to 35 years, so multiplier of 16 shall be applicable. Thus, the compensation on account of permanent disability payable to the appellant-claimant, Paramjit Kuar comes to Rs.46,080/- (Rs.36,000/- x 8 x 16/100).

11. In addition to the aforesaid amount, the claimant shall also be entitled to Rs.5,000/- towards pain and suffering and Rs.5,000/- towards the medical expenses. So, she will be entitled to a total sum of Rs.56,080/-. To make it a round figure, we can take

Rs.56,000/-.

12. Now, I take up FAO No.368 of 2005. Daljit Kaur, claimant-appellant in FAO No.368 of 2005, was 9/10 years of age at the time of accident. She has suffered audiological handicap to the extent of 50% which shall be permanent in nature. The learned Tribunal has awarded compensation of Rs.70,000/- in lump sum but the learned Tribunal has not taken into consideration the fact that the disability suffered by her shall adversely affect the amenity and enjoyment of life and will also adversely affect her matrimonial prospects. So, the claimant Daljit Kaur will be entitled to Rs.30,000/- on account of loss of amenity and enjoyment of life and further Rs.30,000/- on account of adverse affect of her matrimonial prospects. So, there will be increase of Rs.60,000/- and total amount of compensation payable to the appellant-claimant, Daljit Kaur, comes to Rs.1,30,000/-.

13. Thus, keeping in view my aforesaid discussion, both the appeals are hereby partly allowed. The compensation payable to Smt.Paramjit Kaur, the claimant-appellant of FAO No.367 of 2005 is hereby enhanced to Rs.56,000/- (Rs.Fifty Six Thousand only) from Rs.20,000/-. Similarly, the compensation payable to Daljit Kaur, claimant-appellant of FAO No.368 of 2005 is hereby enhanced to Rs.1,30,000/- (Rs.One Lac Thirty Thousand only) from Rs.70,000/- awarded by the learned Tribunal.

14. Both the claimants shall also be entitled to interest at the rate determined by the learned Tribunal in the impugned award

on the enhanced amount of compensation from the date of filing of the claim petitions till realisation. The liability to pay the enhanced amount of compensation shall be as determined by the learned Tribunal in the impugned award.

16.08.2016

Vinay

[DARSHAN SINGH]
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No