

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

FAO No.6652 of 2010

Date of decision : 04.10.2016

Mrs. Kuldeep Kaur

.....Appellant

Versus

M/s Jogindera Co. and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Neeraj Khanna, Advocate for appellant.

Ms. Monika sharma, Advocate for
Mr. Mukul Aggarwal, Advocate for respondent No.3-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 20.10.2009 passed by the learned Motor Accidents Claims Tribunal, Amritsar (hereinafter called the “Tribunal”), vide which appellant-claimant has been awarded compensation to the tune of Rs.1,03,800/- on account of the injuries suffered by her in the motor vehicular accident which took place on 27.06.2006.

2. The present appeal has been preferred by the appellant-claimant for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and have gone through the record of the case meticulously.

4. Learned counsel for the appellant-claimant contended that

the appellant-claimant in this case has suffered 20% disability on account of the injuries received in this accident, but the disability certificate has not been taken into consideration as the concerned doctor could not be examined. He contended that the appellant-claimant has suffered serious injuries including various fractures. She has not been granted any amount on account of loss of enjoyment and amenities of life. The compensation awarded under other heads is also inadequate. Thus, he pleaded for enhancement of the amount of compensation.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the disability certificate was not proved by the appellant-claimant as the concerned doctor was not examined. She contended that in the absence of the testimony of the doctor concerned, the said disability certificate has rightly been discarded by the learned Tribunal. She relied upon case ***Rajesh Kumar Vs. Yudhvir Singh and another 2008 ACJ 2131***. She further contended that sufficient amount of compensation has been awarded to the claimant under all the relevant heads. Thus, there is no scope of any further enhancement.

6. I have duly considered the aforesaid contentions.

7. From the statement of AW3-A Dr. Ajay Abrol, it comes out that the claimant has suffered fracture left femur with soft tissue defect of right lower leg. She was operated on 27.06.2006 and nailing femur was done. Wound debridement and skin grafting of right lower leg was also done. It shows that the appellant-claimant has suffered the fracture left femur with soft issue defect of right lower leg. The claimant has herself

stepped into the witness box as AW-3 and has categorically stated that she has become dependent on others. In the disability certificate Ex.AW1/3, it has been mentioned that she cannot walk without support and will suffer pain while putting weight on left thigh. Thus, due to the injuries suffered in this accident, the appellant-claimant will suffer loss of amenities and enjoyment of life. The learned Tribunal has awarded only Rs.5000/- to the appellant-claimant on account of loss of amenities, which is highly inadequate. In view of the injuries suffered by the appellant-claimant, which will adversely affect the amenities and enjoyment of life, the appellant-claimant deserves to be awarded Rs.50,000/- as compensation under this head.

8. Learned Tribunal has also not awarded any compensation to the appellant-claimant for the special diet, transportation and attendant charges. The appellant-claimant shall be entitled to consolidated sum of Rs.10,000/- under all these heads.

9. The compensation awarded by the learned Tribunal under all other heads i.e. treatment and medical expenses, loss of income and pain & suffering are just and appropriate. Thus, there shall be overall increase of Rs.55,000/- in the amount of compensation payable to the appellant-claimant.

10. Thus, keeping in view my aforesaid discussion the present appeal is hereby partly allowed and the amount of compensation payable to the appellant-claimant is hereby enhanced to Rs.1,58,800/- from Rs.1,03,800/- as awarded by the Tribunal. The appellant-claimant shall be

entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount of compensation shall also remain same as determined by the learned Tribunal in the main award.

04.10.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No