

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

(1)

**FAO No.477 of 2011 (O&M)
Date of decision : 17.02.2016**

Ravinder Kaur

.....Appellant

Versus

Sharwan Kumar and others

...Respondents

(2)

**FAO No.1357 of 2011 (O&M)
Date of decision : 17.02.2016**

Tajinder Singh

.....Appellant

Versus

Sharwan Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. *Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
2. *To be referred to the Reporters or not ? Yes*
3. *Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Subhash, Advocate for
Mr. Jarnail Singh Saneta, Advocate for appellants
in both the appeals.

Mr. R.C. Kapoor, Advocate for respondent No.3-
Insurance Company in both the appeals.

DARSHAN SINGH, J.

This judgment of mine shall dispose of both the appeals mentioned above, which have arisen out of the same award dated 03.08.2010, passed by learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter called the 'Tribunal'), whereby Ravinder Kaur, the appellant of FAO No.477 of 2011, has been awarded the compensation to the tune of Rs.65,000/- and Tajinder Singh, appellant of FAO No.1357 of 2011, has been awarded the compensation to the tune of Rs.1,05,000/-, on account of the injuries suffered by them in the motor vehicular accident, which took place on 21.07.2008.

2. Both the appeals have been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. Previously, notice was issued to all the respondents but as the liability to pay the amount of compensation was joint and several and the respondent No.3 had already appeared to contest the appeals, so it was felt that there was no need to issue notice to respondents No.1 & 2.

4. I have heard Mr. Subhash, Advocate for Mr. Jarnail Singh Saneta, Advocate, learned counsel for the appellants in both the appeals, Mr. R.C. Kapoor, Advocate, learned counsel for respondent No.3-Insurance Company in both the appeals and gone through the paper-book carefully.

5. Initiating the arguments, learned counsel for the appellants contended that appellant-claimant Ravinder Kaur as suffered 3% permanent and 15% temporary disability but she has been granted only

Rs.8000/- as compensation towards disability which is very less.

6. He further contended that appellant-claimant Tajinder Singh has suffered 33% disability but no amount of compensation has been awarded to him under this head.

7. Learned counsel for the respondent-Insurance Company contended that appellant Tajinder Singh has not suffered any permanent disability. Appellant Ravinder Kaur has also suffered only 3% permanent disability. She was only housewife, so there was no question of the disability affecting her future earnings. Thus, he contended that the compensation awarded by the learned Tribunal is just and appropriate.

8. I have duly considered the aforesaid contentions.

9. Firstly, I take up the case of Ravinder Kaur, appellant of FAO No.477 of 2011. As per the statement of PW5 Dr. Bimla Gauri, who proved the disability certificate of Ravinder Kaur Ex.P13, appellant Ravinder Kaur has suffered total 18% physical disability. In the cross-examination, she clarified that 3% disability was of permanent nature and remaining 15% disability was likely to be improved with the passage of time. The learned Tribunal has awarded only Rs.8000/- as compensation on account of 3% permanent disability and no amount of compensation has been awarded towards 15% disability, which was likely to improve. But there is no denial to the fact that even on account of temporary disability, the appellant-claimant might have suffered the loss of enjoyment of life and amenities, may be even for a limited period. PW5 Dr. Bimla Gauri has not been cross-examined to the effect that as to how

much time the permanent disability will take to cure completely. So, in my opinion the claimant shall be entitled to Rs.15,000/- towards the temporary disability suffered by her in this accident. Thus, the amount of compensation is enhanced to Rs.80,000/- from Rs.65,000/- as awarded by the learned Tribunal to appellant Ravinder Kaur.

10. Now I take up the case of Tajinder Singh, appellant of FAO No.1357 of 2011. Appellant-claimant Tajinder Singh has suffered 33% physical disability. The disability certificate is Ex.P12. In the disability certificate, it was not mentioned that the disability suffered by him was permanent disability. PW5 Dr. Bimla Gauri has stated that the disability as assessed may improve with the passage of time with physiotherapy and after removal of implants. The learned Tribunal has not awarded any amount of compensation towards this physical disability suffered by the claimant. But there is no denial to the fact that claimant Tajinder Singh has suffered fracture and on account of that injury he suffered 33% physical disability, though temporary in nature and likely to improve with the passage of time with physiotherapy and removal of implants. But certainly on account of this disability, the claimant has suffered loss of enjoyment and amenity of life, may be for the limited period. There is also no evidence that the whole of the disability of 33% suffered by the claimant shall be cured with physiotherapy and removal of the implants. So, the learned Tribunal was not justified to totally decline any amount to the claimant on account of the physical disability. In my opinion, he will be entitled to a sum of Rs.33,000/- on account of

the physical disability suffered by him due to the injuries suffered in this accident. Thus, the amount of compensation is enhanced to Rs.1,38,000/- from Rs.1,05,000/- as awarded by the learned Tribunal.

11. Thus, keeping in view my aforesaid discussion, both the appeals are hereby partly allowed. The compensation awarded to appellant-claimant Ravinder Kaur in FAO No.477 of 2011 is hereby enhanced from Rs.65,000/- to Rs.80,000/- and the compensation awarded to appellant-claimant Tajinder Singh in FAO No.1357 of 2011 is enhanced from Rs.1,05,000/- to Rs.1,38,000/-. The appellants shall be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

17.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**