

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

**FAO No.1528 of 2013 (O&M)
Date of Decision: February 04, 2016.**

Dhapa Devi

.....APPELLANT(s).

VERSUS

Satish and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. K.S. Dhanora, Advocate
for the appellant (s).

Mr. R.C. Gupta, Advocate
for respondent No.3.

SURINDER GUPTA, J.

This is appeal by Dhapa Devi seeking enhancement of compensation allowed to her by the Motor Accident Claims Tribunal, Hisar (later referred to as 'the Tribunal') for the injuries suffered by her in the accident with motorcycle bearing registration No.HR-20S-1973(hereinafter referred to as 'the offending vehicle').

2. The case of the claimant, in brief, is that on 17.04.2011, she was going on foot towards fields with her son and when they reached near 'Rana' minor, offending vehicle came from Barwala side. Satish, respondent No.1, who was driving the offending vehicle in a rash and negligent manner, hit the claimant as a result of which she suffered grievous injuries and was shifted to N.C. Jindal Hospital, Hisar, where she was medico-legally examined. She remained admitted in the hospital for 15 days. The matter was reported to

the police vide FIR No.128 dated 24.04.2011 registered at Police Station Barwala.

3. The claimant spent huge amount on her treatment as well as on transportation, special diet and engaging attendant. She had also suffered a lot of pain and suffering as well as mental agony. From agricultural and sewing work, she was having earnings of ₹5,000/-. Due to the injuries received in the accident, she had become disabled to earn and has suffered loss in her income.

4. In reply, respondents No.1 and 2 i.e. driver and owner of the offending vehicle denied the accident and took the plea that the vehicle was insured with respondent No.3, as such, the insurance company is liable to pay the compensation, if any.

5. Insurance company, respondent No.3 also contested the claim petition, denying its liability to pay any compensation.

6. On appraisal of evidence, the Tribunal recorded the finding that the accident was caused due to rash and negligent driving of the offending vehicle by respondent No.1. It awarded compensation of ₹2,19,000/- which was computed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Loss of income towards permanent disability	₹77220-00
(ii)	Pain and sufferings	₹40000-00
(iii)	Treatment expenses	₹63329-00
(iv)	Loss of income for three months	₹135000-00
(v)	Special die, attendant and conveyance charges	₹25000-00
<i>Total</i>		₹219049-00 (rounded to ₹2,19,000/-)

7. Learned counsel for the appellant-claimant has argued that the

Tribunal has not allowed any compensation for the disability suffered by the claimant and for the loss of amenities of life. It has also not allowed any compensation for the future medical expenses and the compensation allowed under the conventional heads is also on lower side.

8. Learned counsel for respondent No.3-insurance company has argued that the Tribunal has calculated the loss of income for the disability of 13% suffered by the claimant by taking her monthly income as ₹4,500/-. The quantum of compensation allowed under the heads pain and suffering, treatment expenses, loss of income, special diet, attendant and conveyance charges is quite reasonable and calls for no enhancement.

9. After the accident, the claimant was taken to Jindal Hospital, Hisar and on her medical examination, following injuries were found on her person:-

- “1. Swelling deformity on right elbow.
2. Swelling deformity right leg.
3. Swelling deformity on face and nose.
4. Lacerated wound 2 x 2 cm on right leg.”

10. Dr. Amit Bhutani PW7 has stated that on examination the patient was found to have suffered compound fracture right tibia, fracture medical epicondyle right elbow, fracture clavicle with facial injuries. The claimant remained admitted in the hospital for 15 days. The claimant also suffered 13% permanent disability in relation to her right lower limb, right clavical and dental as per disability certificate (Ex.P47). Though the Tribunal has taken care of loss of income and allowing compensation under the conventional heads but this fact appears to have escaped the attention of the

Tribunal that a person, who has suffered multiple fracture, requires constant medical care, physiotherapy and nutritious diet for a considerable long time. The disability suffered by him also result in loss of amenities of life. The Tribunal has also not allowed compensation to the claimant towards future medical expenses and loss of amenities of life. The quantum of compensation allowed by the Tribunal under the conventional heads, as mentioned in para 6 above, is quite reasonable and call for no interference.

11. In view of my above discussion, the claimant is allowed compensation of ₹25,000/- towards future medical expenses and ₹25,000/- towards loss of amenities of life. The present appeal is accepted to the above extent. The amount of compensation allowed to the claimant by the Tribunal is enhanced from ₹2,19,000/- to ₹2,69,000/-. The claimant is also entitled to the interest @ 7.5% on the enhanced amount of compensation from the date of filing of the claim petition till actual payment. The claimant is also entitled to costs of this appeal. Counsel fee is assessed at ₹10,000/-.

February 04, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE