

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

FAO No. 1404 of 2014 (O&M)

Date of decision: 16.02.2016

Sunita Mall

... Appellant

versus

Shreenath Travels and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Aadarsh Jain, Advocate, for the appellant.

Mr. P.S. Bedi, Advocate for respondent No.3.

Mr. R.N. Singal, Advocate, for respondent No. 6.

K.Kannan, J. (ORAL)

The appeal is for enhancement of claim for compensation for an injury suffered by women resulting in fracture of tibia and fibula of both the legs. She had been operated upon on 3 occasions and had spent 5 weeks in the hospital. She had incurred expenses to the tune of Rs. 3,40,000/- and the Court had provided for a compensation of Rs. 4,00,000/-. The counsel argues that the assessment of merely Rs. 10,000/- for loss of earning capacity is grossly inadequate and appropriate multiplier on the earning skills taking the income to be Rs. 2,500/- must be made by adopting a multiplier treating the disability as also resulting in earning capacity. I reject this argument for there can be no inference that the functional disability as assessed by a Doctor will

have a corresponding loss of earning capacity. Court had taken her to be a housewife and declined to accept the evidence that she was working any way for the disability assessed between 15% to 20%. The Court has awarded Rs. 25,000/- and awarded Rs. 10,000/- for pain and suffering. Considering that she had two fractures and required two surgeries, I will increase the component of pain and suffering as Rs. 7,500/- for every fracture and additional amount of Rs. 5,000/- for pain due to surgical procedures. This will mean an additional amount of Rs. 25,000/- of what has been already assessed. I will also make an additional amount of Rs. 5,000/- for attendant charges. Taking the disability component @ 20%, I will provide for Rs. 40,000/- against Rs. 25,000/- already observed. Consequently, there will be an additional amount of Rs. 45,000/- as compensation payable to the claimant. The liability shall be on the Insurance Company. The Insurance Company will also be liable to pay 9% interest on the additional compensation from the date of the petition till the date of payment.

The award stands modified and the appeal is allowed to the above extent.

(K.KANNAN)
JUDGE

16.02.2016

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