

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

FAO No.4395 of 2013 (O&M)

Date of decision : 13.12.2016

Smt. Surinder Kaur

.....Appellants

Versus

Ram Parvesh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Amandeep Kaur, Advocate for
 Mr. Ashwani Arora, Advocate for appellant.

 Mr. Arvind, Advocate for
 Mr. Vivek Verma, Advocate for respondents No.1 & 2.

 Mr. Lalit Garg, Advocate for respondent No.3-
 Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 06.05.2013, passed by the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter called the “Tribunal”), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellant-claimant has been awarded compensation to the tune of ₹1,60,000/- on account of the injuries suffered by her in the motor vehicular accident which took place on 30.05.2011.

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 carefully.

4. Initiating the arguments, learned counsel for the appellant-claimant contended that learned Tribunal has taken the income of the appellant-claimant to be on the lower side. She further contended that the appellant-claimant has suffered serious injuries in this accident and only ₹ 10,000/- has been awarded on account of pain and sufferings. She further contended that though the learned Tribunal has awarded ₹15,000/- on account of loss of amenity and enjoyment of life but the same has not been added in the total amount of compensation. She further contended that the claimant has suffered shortening of leg and she will feel difficulty in walking throughout her life. The amount so awarded by the learned Tribunal is inadequate.

5. On the other hand, learned counsel for the respondents contended that the claimant has been awarded appropriate amount of compensation under all the heads. The claimant was only a house wife. The notional income of the claimant has been rightly determined by the learned Tribunal. Thus, they contended that there is no scope of any enhancement of the amount of compensation.

6. I have duly considered the aforesaid contentions.

7. This fact is not disputed that the appellant-claimant was a

house wife. The learned Tribunal has taken the contribution of the claimant to the family in terms of the money to be ₹4000/- per month. So, ₹4000/- has been determined to be notional income of the claimant for the purpose of computation of the compensation on account of future loss of income due to permanent disability. In view of the detailed discussion by the learned Tribunal, the determination of the notional income of the claimant to be ₹4000/- per month seems to be justified and reasonable, which does not require any interference.

8. However, the learned Tribunal has awarded only ₹10,000/- on account of pain and suffering. As per the medical evidence, the claimant has suffered serious injuries. As per the discharge summary Ex.P10, the diagnosis of the injuries and surgery underwent by the claimant is as under:-

“Closed comminuted segmental fracture shaft of femur (proximal mid third junction and supra condylar region) right side. Closed fracture both bone forearm (radius segmental) mid distal third junction right side.

Closed reduction and internal fixation of fracture femur with DFN (SYNTHES) on 31.05.2011.

Open reduction and internal fixation of fracture radius and ulna with small LCP (SYNTHES) and application of below elbow slab on 02.06.2011.”

9. The claimant was admitted in the hospital on 30.5.2011 and discharged on 13.06.2011. She also underwent the surgery. So, the compensation on account of pain and suffering is enhanced from ₹10,000/- to ₹20,000/-.

10. The claimant has suffered shortening of right lower limb by

one inch. Thus, the claimant will suffer difficulty in walking throughout her life which will adversely affect amenity and enjoyment of life. So, she will be entitled to ₹50,000/- on account of loss of enjoyment and amenities of life. Thus, the total amount of compensation payable to the claimant is worked out as under:-

Sr. No.	Heads of compensation	Amount of compensation awarded by the Tribunal <i>(in rupees)</i>	Amount of compensation enhanced by this Court <i>(in rupees)</i>
1.	Expenditure incurred on medical treatment	11,000	11,000 <i>(no change)</i>
2.	Expenditure incurred in special diet	8000	8000 <i>(no change)</i>
3.	Expenditure incurred for attendant charges	12,000	12,000 <i>(no change)</i>
4.	Compensation on account of pain and sufferings	10,000	20,000
5.	Loss of earning capacity	93,600	93,600 <i>(no change)</i>
6.	Loss of income	16,000	16,000 <i>(no change)</i>
7.	Conveyance allowance	10,000	10,000 <i>(no change)</i>
8.	Loss of enjoyment of life and amenities	15,000 <i>(learned Tribunal had awarded this amount but left to mention it in its table)</i>	50,000
Total		1,60,600	2,20,600

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellants-claimants is enhanced to ₹2,20,600/- from ₹1,60,000/- 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 remain the same as determined by the learned Tribunal in the main award.

13.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No