

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

FAO-532-2013 (O&M)
Date of decision: 05.05.2016

Krishna

..Appellant

Versus

Ash Mohd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashish Gupta, Advocate for the appellant.

Mr. Rajesh Bansal, Advocate for respondent No3.

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JITENDRA CHAUHAN, J.

The present appeal has been filed by the injured-claimant, seeking enhancement of the amount of compensation awarded by learned Motor Accidents Claims Tribunal, Nuh, ('the Tribunal', for brevity) vide award dated 25.10.2012.

The learned counsel for the appellant contends that the Medical Board had found the left eye optic atrophy with no perception of light of the appellant. The appellant had lost vision of her left eye due to the accident and sustained 30% permanent disability, which suffers the marriage prospects of the appellant. He cites '**Master Mallikarjun Vs. Divisional Manager, The National Insurance Co. Ltd. and another'**, 2013(4) TAC 1.

On the other hand, the learned counsel for respondent No.3

states that a just and reasonable compensation has been awarded by the learned Tribunal.

I have heard the learned counsel for the parties and perused the entire record.

As per the statement of PW4-Dr. Suresh Kumar Gupta, Eye Surgeon, General Hospital, Mandikhera and other members of the Medical Board, the injured suffered the permanent disability to the extent of 30%. In Master Mallikarjun's case (supra), Hon'ble the Supreme Court has held that in case the disability is above 10% and upto 30%, the injured-child is also entitled to compensation of ₹3,00,000/-. Thus, as per law laid down in the reported case (supra), the appellant is also entitled for another sum of ₹3,00,000/- .

It is an admitted fact that the injured-child is a young girl of 13 years of age. As per the medical report, the injury is permanent and irreversible. Therefore, on account of injury suffered by the appellant she shall not be eligible for many avocations and the quality of the life as well as the marriage prospects are also adversely affected. Accordingly, another ₹2,00,000/- towards pain and suffering and loss of marriage prospects would sufficiently meet the ends of justice.

In view of the above, the injured-appellant is held entitled to the total compensation of ₹5,00,000/- [₹2,00,000/- (towards 'pain and suffering and loss of marriage prospects') + ₹3,00,000/- (towards permanent disability)] payable to the injured-appellant, as indicated

above, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, she shall also be entitled to interest as indicated in the award i.e. 7.5% per annum, from the date of filing the present appeal, till its realization. It is however, made clear that the amount of compensation of ₹1,00,000/- awarded by the Tribunal shall be deducted from the total amount of ₹5,00,000/- assessed by this Court, meaning thereby that the injured-appellant is held entitled to the enhanced compensation of ₹4,00,000/-. Needless to add, recovery rights granted to respondent-Insurance Company by the Tribunal shall remain intact.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

05.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**