

FAO No. 554 of 2013 (O&M)

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 554 of 2013

Date of Decision: 15.11.2016

Smt. Sunita Bakshi

---Appellant

versus

Subhash Chand and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sagar Aggarwal, Advocate
for the appellant**

**Mr. Rajneesh Malhotra, Advocate
for the insurance company**

Rekha Mittal, J.

Sunita Bakshi injured-claimant is in appeal seeking enhancement of compensation in regard to injuries sustained by her in a motor vehicular accident that took place on 11.1.2010.

The Motor Accidents Claims Tribunal, Sonapat (in short “the

Tribunal”) has awarded total compensation of Rs. 7,41,624/- under the following heads:-

- | | |
|----------------------------------|-----------------|
| 1. Medical expenses | -Rs. 5,82,424/- |
| 2. Pain and suffering | -Rs. 75,000/- |
| 3. Loss of income qua disability | -Rs. 79,200/- |
| 4. Special diet, transportation, | -Rs. 5000/- |

attendant charges etc.

Counsel for the appellant has submitted that compensation awarded qua loss of income, special diet, transportation, attendant etc. is liable to be enhanced. No compensation has been awarded for loss of amenities of life qua disability to the extent of 50% due to traumatic stiffness of right shoulder and right wrist with fracture of lower end of right radius with avulsion fracture of right posterior cruciate ligament of knee with instability of right knee with pain.

Counsel for the insurance company, on the other hand, has supported the award with the submissions that the Tribunal has allowed reimbursement of all the medical bills and awarded an amount of Rs. 75,000/- for pain and suffering.

I have heard counsel for the parties, perused the paper book and

the records.

The occurrence in question took place in January 2010. Hon'ble the Apex Court in *Lata Wadhwa vs. State of Bihar 2001(4) RCR (Civil) 673* assessed value of services of a house maker at Rs. 3000/- per month in a case of 1989. Keeping in view trend of price index (upward), value of services of the injured victim is assessed at Rs. 6000/- per month. The injured suffered disability to the extent of 50% resulting in stiffness of right shoulder, right wrist and instability of right knee. Such a disability is bound to cause more trouble with the advancing age. There is no clear evidence on record as to the functional disability resulting from 50% disability qua the upper limb. In *R.D.Hattangadi Vs. M/s Pest Control (India) Private Limited AIR 1995 (SC) 755*. Hon'ble the Supreme Court of India has held that compensation is to be assessed by the Tribunal on the basis of some guess work and some hypothetical consideration some amount of sympathy linked with the nature of disability caused but all the aforesaid elements have to be viewed with objective standards. Taking into consideration the materials on record when examined in the light of observations made in *R.D.Hattangadi's case (supra)*, interest of justice would be served if compensation qua loss of income is assessed by taking

functional disability to the extent of 25%. In this manner, loss of earning qua disability is calculated at Rs. 6000 x 12 x 11 x 1/4th = **Rs.1,98,000/-**.

The victim sustained fractures. She remained hospitalized for a period of 23 days. The injuries left a permanent scar in the nature of disability. The claimant shall be entitled to an amount of **Rs. 30,000/-** for loss of amenities of life. She is awarded an amount of **Rs. 15,000/-** for special diet, transportation and attendant charges. Compensation awarded by the Tribunal to the tune of **Rs. 75,000/-** for pain and suffering and **Rs. 5,82,424/-** for medical expenses is affirmed. The total compensation comes to **Rs. 9,00,424/-** and the enhanced compensation is **Rs. 1,58,000/-** payable with interest at the rate of 7.5% from the date of petition till realization.

Appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.11.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No