

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.2100 of 2003

Date of Decision.15.09.2017

Gurjeet Kaur

.....Appellant

Vs

Jaswinder Singh and others

.....Respondents

Present: Mr. G.S. Bains, Advocate for
Mr. Vijay Sharma, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for injuries suffered by a girl aged 14/15 years suffered in a motor accident occurred on 11.3.2000. When she was coming back to her village on bicycle after taking part in examination, the offending scooter bearing registration No.PIP-3334 driven by respondent No.2 rashly and negligently came from opposite side and dashed against the cycle of the injured-claimant, resulting into injuries on her head, mouth, nose and other parts of body. Her lower jaw was fractured. She was taken to Rajendra Hospital, Patiala from where she was referred to PGI, Chandigarh and remained hospitalized there from 11.3.2000 to 19.3.2000. She was again advised to get treatment from Rajindra Hospital, Patiala where she remained admitted from 19.3.2000 to 10.04.2000 and operated on 28.3.2000. Due to side effect of injuries mentioned above, her eye sight was also affected.

The Tribunal assessed a compensation of ₹52,397/- which

included ₹42,397/- for expenditure incurred on medicines and medical

treatment and ₹10,000/- for other various heads.

Mr. G.S. Bains for Mr. Vijay Sharma, learned counsel appearing for the appellant submits that the Tribunal has erred in assessing a lump sum amount of ₹10,000/- for various heads like special diet, attendant charges, transportation etc. It did not provide anything for pain and suffering despite the fact that the claimant was a young girl of 14/15 years and she undergone lot of pain and suffering and trauma as surgery was performed to reduce the fracture of mandible. She was a student of 8th Standard at the time of accident and on account of injuries, her studies were grossly affected. The Tribunal erred in not appreciating the fact that fracture of mandible caused disfigurement of face affecting the prospect of marriage in getting a suitable match to a girl, thus, urges this Court for enhancement of compensation by modifying the award.

On the other hand, Mr. Gupta, learned counsel appearing on behalf of the insurance company submits that the Tribunal has taken care all the heads of claim and the award passed is perfectly legal and justified. There is no evidence brought on record by examining the doctors or by producing any document that the claimant suffered disfigurement of face, thus, there is no scope for further enhancement.

I have heard learned counsel for the parties and appraised the paper book. The Tribunal has provided the amount spent on the medical treatment to the tune of ₹42,397/- and further provided ₹10,000/- in lump sum under other heads like special diet, attendant charges and transportation. As regards the plea of disfigurement of face, there is no concrete evidence brought on record either through testimony of doctor or by producing any medical record/photograph to form an opinion that the

claimant suffered disfigurement of face due to fracture of mandible, which may affect her chance to find a suitable match for marriage. In the absence of any such evidence, it is not feasible to grant any amount under the head of disfigurement of face or loss of prospect of marriage. The only scope for enhancement of compensation is under the head of pain and suffering which I will assess as ₹40,000/-. Therefore, the appellant-claimant shall be entitled to an enhanced amount of ₹40,000/- over and above the amount what has already been assessed by the Tribunal. This amount shall also attract interest @6% from the date of filing of the appeal till its realization. The liability shall remain the same as has already been assessed by the Tribunal.

The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

September 15, 2017

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No