

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

**FAO No.218 of 1992 (O&M)
Date of Decision: May 09, 2017**

Kartar Kaur

..Appellant(s)

Versus

Jaimal Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vinod Kanwal, Advocate
for the appellant.

Mr. Pradeep Goyel, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 03.12.1991 passed by the Motor Accident Claims Tribunal, Karnal.

On the last date the matter had been adjourned as the counsel wanted to verify whether the appellant was alive. Today he states that the appellant is alive.

Kartar Kaur was 55 years old. She met with an accident in 1989 and the right leg above the ankle was amputated, leading to the disability of 55%. She remained in the hospital for one and a half month. It was claimed by her that she was doing tailoring work and was able to earn Rs.400/- per month. The Tribunal had awarded the following compensation:-

Compensation due to the past, present and future pains and sufferings	:	Rs.15,000/-
Compensation due to injuries including permanent disability	:	Rs.15,000/-
Compensation due to the expenses incurred by the Claimant for her treatment and recovery and in her special diet:	:	Rs.10,000/-
Compensation due to the loss of earning and other miscellaneous losses	:	Rs.5,000/-
Total	:	Rs.45,000/-

The submission made on behalf of the appellant is that the amount awarded for pain and suffering was on the lower side and the multiplier method should have been applied to calculate the amount for the disability and separate amount should have been allowed for the special diet and very less amount had been awarded for loss of earning for the treatment period. It was urged that some amount should have been awarded for transportation.

The submission on behalf of the respondent-insurance company is that considering the price index in 1989 the Tribunal had awarded adequate compensation on all the heads. It was urged that the claimant herself had stated that she was earning Rs.400/- per month and income for a year had been assessed as loss of earning.

The minimum wages in Haryana in 1989 were Rs.600/- per month. The claimant had stated that she used to earn by doing house-hold work and stitching and after the accident she was unable to attend to the household work and was unable to stitch clothes as she could not move around independently and had to take support of someone.

Considering the income to be Rs.400/- per month and making an addition towards future prospects, which is 15% it is now to be seen as to what would be the functional disability since the amputation was on the right leg above the ankle. I would take the functional disability at 50% and if the calculations are made, the amount would be Rs.230 x 12 x 11= Rs.30,360/-. The amount allowed for pain and suffering, treatment and special diet is adequate. The compensation that was payable would be as follows:-

Compensation for Disability	: Rs.30,360/-
Compensation for pain and sufferings	: Rs.15,000/-
Compensation for special diet	: Rs.10,000/-
Compensation for loss of income for one year	: Rs.5,000/-
Compensation for attendant charges	: Rs.5,000/-
Compensation for transportation	: Rs.1,000/-
Total	: Rs.66,360/-

The Tribunal had allowed Rs.45,000/-, which would be deducted and the remaining amount of Rs.21,360/- would be payable to the appellant with interest @ 6% from January, 1992.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 09, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No