

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 51 of 1992

Date of Decision:01.11.2017

Geeta

---Appellant

vs.

Shamsher and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.K.S.Malik, Advocate
for the appellant

Mr. Ashish Gupta and Mr. Mukesh Verma, Advocates
for respondent Nosl. 2 and 4

Mr. Umesh Aggarwal, Advocate
for respondent No. 3

Rekha Mittal, J.

The injured-victim aged about 3½ years has filed the appeal seeking enhancement of compensation in respect of injuries sustained by her in a motor vehicular accident that took place on 22.2.1989.

The Motor Accidents Claims Tribunal, Jind (hereinafter to be referred as “the Tribunal”) has awarded compensation to the tune of Rs. 40,000/-, detailed hereunder:-

Medical expenses	Rs. 7500/-
Pain and suffering	Rs. 20,000/-
Special diet	Rs. 2500/-

Loss of matrimonial prospects Rs. 10,000/-

Counsel for the appellant has submitted that the injured-victim suffered permanent disability to the extent of 30% to her left lower limb but the Tribunal has not allowed any compensation in this regard. In support of his contention, he has referred to judgment of Hon'ble the Supreme Court of India **Master Mallikarjun vs. Divisional Manager, the National Insurance Company Limited and Another AIR 2014 (SC) 736.**

Counsel representing the insurance company, on the contrary, would urge that disability to the extent of 30% is qua a particular limb and not to the whole body, therefore, the claimant cannot press for grant of compensation in the light of criteria laid down in the referred authority.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

The Tribunal has awarded an amount of **Rs. 7500/-** for expenses on medical treatment though the claimant produced bills valuing Rs.5154/-. Under the circumstances, compensation for medical expenses is ordered to be affirmed.

The injured-victim suffered permanent disability of 30% as deposed by Dr. Dhan Kumar. The Tribunal has held that the child has to walk with limp throughout her life. There is no medical evidence that disability to the extent of 30% can be said to be disability to the whole body. Nevertheless, disability of 30% to the left lower limb cannot be less than 10% qua the whole body and accordingly, the claimant is held entitled to an amount of **Rs.3,00,000/-** for pain and sufferings already undergone

and to be suffered in future, mental and physical suffering, hardship, inconvenience, discomforts etc. and loss of amenities of life on account of permanent disability in the light of enunciation laid down in **Master Mallikarjun's case (supra)**. An amount of **Rs. 12,500/-** awarded by the Tribunal for special diet and loss of matrimonial prospects shall be appropriated towards discomforts, inconvenience and loss of earning to the parents during period of hospitalization of the victim.

The occurrence in question took place in February 1989. The award was made by the Tribunal on 1.8.1991 and the instant appeal was filed by the victim in December 1991. The claimant has failed to produce any evidence with regard to her treatment in future or expenses incurred on the said treatment. That being so, claim of the injured for future medical expenses is not tenable and accordingly rejected. In view of the above, total compensation payable to the claimant comes to **Rs. 3,20,000/-** (7500+3,00,000+12500) and the additional amount is **Rs. 2,80,000/-**. The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization. The Additional amount shall be invested in a fixed deposit receipt for a period of three years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

01.11.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No