

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

FAO No.1004 of 1995 (O&M)
Date of Decision: April 20, 2017

Vidhi Gupta

..Appellant(s)

Versus

The State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. A.K. Jaiswal, Advocate
for the appellant.

Mr. Vishal Kashyap, AAG, Haryana.

ANITA CHAUDHRY, J.

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

Sapna and her elder sister Vidhi met with an accident on 11.08.1991 at about 6:25 PM on the lake road near the T-junction of the road dividing sectors 4 & 5. Both the sisters were pillion riders on a moped driven by Rajni. A police gypsy is said to have hit them resulting in injuries.

This appeal has only been filed on behalf of Vidhi Gupta through her attorney i.e. her father. Vidhi left for America after the accident. The details of her going abroad are not available. The record of this file had been burnt in the fire accident which had taken place in

the year 2011. Only the copy of the award could be reconstructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Vidhi failed to appear in the witness box and her father who was an Officer of the Indian Administrative Services appeared on her behalf. Vidhi had sustained a disability which was to the extent of 12%.

The Tribunal took into account, the statement made by the father and the statement of Dr. Singla to show that Vidhi had sustained a fracture of pelvis. Her father had stated that he had spent Rs.8,000/- on her treatment and had engaged a maid servant for 2 ½ months as she was bed ridden and he had paid Rs.3,000/- as wages for that period and Rs.3,000/- as fees to the private doctors and had purchased a wheel chair for Rs.2,000/- and the treatment was going on in U.S. The Tribunal awarded Rs.20,000/- for pain and suffering, Rs.50,000/- for the disability and Rs.10,000/- for the amount paid as wages for the attendant/maid servant & wheel chair. It noted that not a single cash voucher or bill was produced to show that any medicine was purchased or any reimbursement was taken from the office and in all a sum of Rs.80,000/- was allowed with interest @ 12%.

The submission on behalf of the appellant is that Vidhi was highly qualified and she had done her Masters in Political Science and the amount assessed on the disability was on the lower side and the

amount allowed for pain and suffering should have been at least Rs.50,000/-. It was urged that the treatment was long and Vidhi had to be operated again in America and lot of expense was made there and they were entitled to enhancement in the amount allowed for the attendant, pain and suffering and for the disability.

The submission on the other hand was that there is absolutely no evidence even after the filing of this appeal to show that any treatment was taken in America or that any expenditure had been made. It was urged that the accident is of 1991 and the minimum wages were not more than Rs.700 – 800/- per month and the father had claimed that he had paid Rs.3,000/- for the attendant for 2 ½ months and those had been taken care of. It was urged that not a single bill was produced and the Tribunal had already awarded a higher amount on all the heads which compensates the claimant.

No evidence was led by the claimant to show the expenditure made by them on the treatment. There is no evidence as to when the claimant was able to travel abroad. There is no evidence that any treatment was taken thereafter. It cannot be accepted that the claimant did not return to the country till the trial concluded. The disability was assessed at 12%. The functional disability would be much lesser say 7 to 8 %. Even if a rough guess about the income is taken though she was not working and using the multiplier method, the amount available for the disability could not be more than Rs.35,000 – 40,000/-. The Tribunal had awarded Rs.50,000/-, which was adequate.

The amount awarded on the other heads considering the price index was also on the higher side. No addition is required to be made.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

April 20, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No