

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

FAO No. 1492 of 1995 (O&M)

Date of decision: 17.05.2017

Smt. Charanjit Kaur

... Appellant

Versus

Col. R.S. Sandhu and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. C.S. Pasricha, Advocate and
Mr. Sunny Kohli, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for the respondent-Insurance Co.

HARI PAL VERMA, J. (ORAL)

The appellant-claimant namely Charanjit Kaur has filed the present appeal against the award dated 07.11.1994 seeking modification/enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Ropar (for short 'the Tribunal').

Briefly stated, as per the claim petition, on 02.01.1991, the claimant alongwith her children Harpooja Sandhu, Harpriya Sandhu and Gurtej Sandhu was travelling in a car bearing registration No.PCI-9978 which was being driven by her husband Col. R.S. Sandhu (respondent No.1 herein). The claimant was sitting on the front seat of the car. At about 7.00 PM the car reached

the area of village Sahoran. Respondent No.1 took the car towards left where a tractor trolley was going ahead. The driver of the tractor bearing registration No. HPG-820, who was ahead of the car applied sudden brakes which led to the accident. The claimant and her daughter received injuries. Dr. S.Mittra of Department of Plastic Surgery, P.G.I., Dr. S.P.Singh Grewal, Department of Ophthalmology of P.G.I., Dr. Sharma, Department of Orthopedics P.G.I. and Dr. S.K. Bansal, Department of Cardiology, P.G.I., Chandigarh treated the claimant. AW-2 Dr. S.S. Pandav, Asstt. Professor, Department of Eyes, PGI deposed that claimant remained in the hospital on account of injuries from 02.01.1991 to 11.03.1991. As per the medical record of the eye injury she had full thickness laceration of right upper lid. There was a large laceration in the sclera. There was blood inside the eye. The eye ball was ruptured which was surgically repaired. There was no vision in the right eye. Accordingly, an artificial eye shell was advised. Eye vision of the right eye was permanently lost.

For the aforesaid injury, the Tribunal has awarded a compensation of Rs.2,40,000/-; the break-up of which is as under:-

- i) *For pain, suffering and : Rs.40,000/-
mental shock-constant pain,
long term treatment-
operations etc.*
- ii) *Amount spent on medicines, : Rs.50,000/-
treatment, operations, diet,
conveyance, attendants etc.*

iii) *For loss of amenities of life, : 1,50,000/-
future financial loss, total
loss of vision of right eye,
implanting of artificial eye
-permanent disability*

Total = : 2,40,000/-

Learned counsel for the appellant-claimant has argued that the compensation awarded by the Tribunal is not appropriate keeping in view the injury, pain and suffering and mental shock as suffered by the claimant. The claimant remained in PGI from 02.01.1991 to 11.03.1991. Even thereafter she was advised to get whole of the treatment from the PGI hospital. He has, therefore, prayed for enhancement of compensation.

On the other hand, learned counsel for the respondent-Insurance Company has argued taking into consideration the injury suffered by the claimant-appellant, adequate compensation has been awarded and there is hardly any scope for interference.

I have heard counsel for the parties.

The compensation awarded under the head of pain and suffering has not been awarded by the Tribunal vis-à-vis the pain suffered by the claimant. Considering her long stay in PGI hospital and the fact that the eye ball was ruptured which was surgically repaired and she has lost the vision of right eye permanently, the compensation deserves to be enhanced. Similarly, for loss of amenities of life and disfigurement of her look which had adversely affected her beauty and she being a lady deserves higher

compensation.

There is no dispute that she remained in the hospital for about two and half months i.e. from 02.01.1991 to 11.03.1991. Her eye ball was ruptured which was surgically repaired. The accident has resulted in the permanent loss of vision of right eye and for such like injury the patient is required to get whole of the treatment from an eye surgeon. Therefore, this Court finds that the amount of Rs.40,000/- awarded by the Tribunal towards pain, suffering and mental shock-constant pain, long term treatment-operations etc. needs to be enhanced. Claimant deserves at least Rs.1,40,000/- under this head instead of Rs.40,000/- awarded by the Tribunal as she remained admitted in PGI, for such a long period.

Similarly, considering the fact that the appellant is a lady and because of the accident, her eye ball was ruptured, which was surgically repaired and she has permanently lost vision in the right eye which led to the implant of an artificial eye shell, this court is of the opinion that she deserves Rs.1,75,000/- on account of loss of amenities of life instead of Rs.1,50,000/-. The compensation of Rs.50,000/- awarded by the Tribunal under the head medicine, treatment, operation etc. is appropriate.

Accordingly, the award passed by the Tribunal is modified and claimant is held entitled for total compensation of Rs.3,65,000/- (Rs.140000+175000+50000) instead of Rs.2,40,000/-

awarded by the tribunal.

Since appellant has already received an amount of Rs.2,40,000/- she would be entitled for an additional amount of Rs.1,25,000/- over and above the compensation amount awarded by the Tribunal. The enhanced amount shall fetch interest @ 6% per annum from the date of filing of the claim petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

(HARI PAL VERMA)
JUDGE

17.05.2017

kv

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No