

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

**FAO No.2015 of 1995
Date of Decision: 06.09.2017.**

Devinder Kaur

... Appellant

Versus

State of Punjab and Others

... Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Karamjit Singh Chahal Advocate
for the appellant.

Ms. Jasleen Kaur Sidhu, AAG, Punjab.

AVNEESH JHINGAN J. (ORAL)

The present appeal is against the award dated 03.05.1995 passed by Motor Accident Claims Tribunal, Patiala, (hereinafter referred to as the Tribunal).

A claim petition under Section 166 of Motor Vehicles Act was filed for injuries suffered from the fire in Punjab Roadways Bus. The accident occurred on 20.07.2017.

As a result of fire in the ill fated bus, some of the passengers died and some of them suffered burn injuries. The claimant in the present case suffered burn injuries to the extent of 40 per cent. On her claim petition, Tribunal awarded a sum of ₹ 50,000/- after considering the evidence and the witnesses.

Being aggrieved of the award, the present appeal has been filed for enhancement of the compensation amount.

I have heard the learned counsel for the parties and perused the paper-book.

There is no dispute about the fact that bus No.PJG-4059 of Punjab Roadways was engulfed in fire near village Lalru on 20.07.1992. As a result of the fire, the claimant suffered burn injuries to the extent of 40 per cent. For treatment of the burn injury she remained hospitalized in PGI, Chandigarh, from 20.07.1992 to 12.08.1992. The only issue involved in the present appeal is whether the amount of ₹ 50,000/- of compensation awarded by the Tribunal should be enhanced or not.

The counsel for the appellant argued that a housewife having small children had suffered 40 per cent burn injuries. Burn injuries left permanent scars on her body. The Tribunal had granted ₹ 50,000/- only. The amount is too meager. The counsel for the appellant further argued that various pecuniary and non-pecuniary heads in case of non-fatal injuries have not been considered by the Tribunal.

The counsel for the respondents vehemently argued that the accident took place in the year 1992 and the medical bills which were produced worth ₹ 3,500/- only. Therefore, the compensation of ₹ 50,000/- already awarded is more than enough for the injuries suffered by the claimant in this case.

Admittedly, the claimant remained hospitalized for 23 days for treatment of the injuries suffered by her. Yet it cannot be said that during period of hospitalization only a sum of ₹ 3,500/- had been incurred on medical expenses. The claimant was aged 29 years at the time of accident and she was

young lady rearing small children.

The Hon'ble Apex Court in Jitendra Khimshankar Trivedi and others Versus Kasam Daud Kumbhar and others, 2015 (4) SCC 237, has held as under:

“Even assuming Jayvantiben Jitendra Trivedi was not self-employed doing embroidery and tailoring work, the fact remains that she was a housewife and home maker. It is hard to monetize the domestic work done by a house-mother. The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognized the contribution made by the wife to the house is unvaluable and that it cannot be computed in terms of money. A house-wife/home-maker does not work by the clock and she is in constant attendance of the family throughout and such services rendered by the home maker has to be necessarily kept in view while calculating the loss of dependancy.”

As per the decision of the Hon'ble Apex Court referred above, contribution of a house wife cannot be under estimated and it is not possible to calculate her contribution to the family in monetary terms.

The Hon'ble Apex Court in ***Raj Kumar Vs. Ajay Kumar and another 2011(1) SCC 343*** has held that in case of non-fatal injuries just and equitable compensation should be established keeping in view pecuniary and non-pecuniary losses.

The Tribunal while awarding compensation of ₹ 50,000/- has not taken into consideration special diet which had to be given. Even the transportation cost for her treatment has not been considered. It has not been appreciated that she would be leading rest of her life with scars. The Courts should have been liberal towards the appellants to provide just and equitable compensation. Taking totality of the circumstances the amount of ₹ 50,000/-

awarded by the Tribunal is enhanced to ₹ 1.10 lac. The claimant shall be entitled to the enhanced amount along with interest @ 6% payable from the date of filing of claim petition till realization of the amount.

The appeal is partly allowed.

September 06, 2017
rekha

(AVNEESH JHINGAN)
JUDGE

whether reportable	Yes/No
<i>whether speaking/non-speaking</i>	<i>Yes/No</i>