

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

FAO No.1584 of 2001(O&M)

Date of Decision: 16.11.2017

Miss Kanta Rani

...Appellant

Versus

Khazan Singh and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Sachin Mittal, Advocate for the appellant

Mr.Ripu Daman, AAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. The appellant is present in person alongwith her counsel. I have heard learned counsel for the parties and perused the paper-book.

2. It appears from the award that nothing was given to the appellant on account of pain and suffering for injuries suffered in the road accident, though there is some discussion on the point, but in paragraphs 12 and 13, nothing is forthcoming as to how General Damages of ₹ 47,000/- was assessed and Special Damages of ₹ 40,000/- making a total compensation package of ₹ 90,000/-.

3. It is not clear from the award whether the injury was temporary or permanent, but it has been recorded @ 15%. It is also not clear whether the Tribunal quantified separately loss of earning capacity in relation to the permanent disability if at 15% then ₹ 2000/- per percentage of permanent disability in terms of the Schedule to the Motor Accident Claims Act, 1988. The injury suffered was when the appellant was a young unmarried woman pursuing her studies in three year Bachelor of Arts degree course. As a

degloving thigh injury and commuted fracture femur shaft”. She had to undergo two successive operations on 23rd October, 1998 and 25th October, 1998 and this was proved on medical evidence on the testimony of PW8, Dr.Ashok Anand, Orthopaedic Surgeon, Pushpanjly Hospital, Gurgaon. The patient was discharged on 31st October, 1998 and was again hospitalized from 9th November, 1998 to 11th November, 1998. During this period, K-nail was fixed and her skin grafting was done and the K-nail needs removal costing about ₹ 7,000/- to ₹ 8,000/-.

4. As per medical evidence, PW7 Dr.Akhlaq Ahmad testified that after examination, he was of opinion that there was moderate restriction of movement in the left knee of the appellant and the Board assessed the disability to the extent of 15%. The disability was proved as per certificate Ex.P-53. In view of the trauma and psychiatric shock suffered by the appellant and disfigurement on account of skin drafting as a result of the accident, I feel that even though in 1998 when the accident happened, the Tribunal should have particularized the heads of compensation in an articulate manner. Not having done so, and keeping in view the fact that the appeal is of the year 2001 and that the accident occurred 19 years ago, there would be no practical use to remit the case for re-determination of compensation which would only prolong the litigation and consume time of the Tribunal. Therefore, I feel that in addition to ₹ 90,000/- awarded by the Tribunal, an additional amount of ₹ 50,000/- deserves to be awarded to take care of pain and suffering and the limp in the appellant's gait which this Court has noticed during the proceedings to serve the ends of justice by award of just compensation.

5. Accordingly, this appeal is partially allowed. The impugned

Tribunal, Gurgaon is modified by increasing the amount of compensation from ₹ 90,000/- to ₹ 1,40,000, i.e., by ₹ 50,000/-. The enhanced amount of ₹ 50,000/- will be due and payable to the claimant/appellant from the date of institution of claim petition till its realization at the rate of interest awarded by the Tribunal i.e. @ 12% per annum which is maintained. The respondent-State of Haryana which owned the offending vehicle plied by the Haryana Roadways which was involved in the accident would calculate the amount payable and deposit the same before the Tribunal/Executing Court within two months from the date of receipt of a certified copy of this order and thereafter the amount be disbursed to the claimant, after following due procedure of law.

16.11.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No