

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

FAO No. 2657 of 2001 (O&M)

Date of decision : 07.02.2017

Santo Devi

.....Appellant

Versus

Ujwal Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vinod Gupta, Advocate for appellant.

Mr. Raj Kumar Makkad, DAG, Haryana for respondents
No.2 & 3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 23.04.1999, passed by the learned Motor Accidents Claims Tribunal, Hisar (hereinafter called the “Tribunal”) in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellant-claimant has been awarded compensation to the tune of ₹1,20,000/- on account of the injuries suffered by her in the motor vehicular accident which took place on 20.07.1996.

2. The present appeal has been preferred by the appellant-claimant for the enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and gone through the record of the case meticulously.

4. Learned counsel for the appellant-claimant contended that

the appellant-claimant has suffered 40% permanent disability on account of the injuries suffered by her in this accident but the learned Tribunal has only awarded ₹50,000/- as compensation under this head. He contended that the claimant has not been awarded any compensation towards transportation and attendant charges. Thus, he contended that the amount of compensation awarded by the learned Tribunal is inadequate.

5. On the other hand, learned State counsel contended that the learned Tribunal has awarded just and adequate amount of compensation by taking into consideration all the relevant heads.

6. I have duly considered the aforesaid contentions.

7. The appellant-claimant alleged that she was doing tailoring work. She also used to give training of tailoring to the girls of their *Mohalla* and used to earn ₹3000/- per month, but in the cross-examination she admitted that she does not maintain any account regarding her income. She was 60 years of age as mentioned in the medico legal report Ex.P6 and treatment record Ex.P7. The claimant has also not examined any of her student to establish that she has received any training of tailoring from the appellant. Thus, it appears that the appellant-claimant was simply a housewife. Hence, the disability suffered by her cannot be stated to be adversely affecting her earning capacity. However, at the same time, she must have faced difficulty in discharging her duties as a house wife and rendering proper service to the family. The learned Tribunal has awarded ₹50,000/- in lump sum for 40% disability suffered by the claimant on account of mal-

united fracture of femur and proximal tibia along with ankylosis of right knee with weakness of right lower limb. In my opinion the aforesaid amount is inadequate. So, the appellant-claimant shall be entitled to a sum of ₹90,000/- on account of the permanent disability suffered by her.

8. Learned Tribunal has also not awarded any amount of compensation to the claimant towards transportation and attendant charges. The claimant shall be entitled to a sum of ₹5000/- towards transportation charges and ₹5000/- towards attendant charges. In this way, the total amount of compensation comes to ₹1,70,000/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to ₹1,70,000/- from ₹1,20,000/- as awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 45 days from today, failing which the appellant-claimant shall be entitled to interest on the enhanced amount of compensation @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain the same as determined by the learned Tribunal in the main award.

07.02.2017

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No