

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

FAO No.3631 of 2005 (O&M).
Decided on:-February 28, 2017.

Smt. Karnailo Devi.

.....Appellant.

Versus

Baldev Singh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Arvind Bansal, Advocate
for the appellant.

Mr. J.S. Saneta, Advocate
for respondents No.1 and 2.

Mr. Satpal Dhamija, Advocate
for respondent No.3.

HARI PAL VERMA, J.

Appellant-claimant has filed the present appeal seeking enhancement of compensation as awarded by learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter called as the Tribunal) vide award dated 04.03.2005.

Briefly stated, appellant-claimant was injured in a roadside accident which took place on 18.05.2003. She had sustained injuries when the truck bearing registration No.HR-45-5621 driven by respondent No.1 struck her after coming from Kacha portion and the wheel of the truck passed over both the hands of the claimant. Resultantly, the claimant suffered multiple grievous injuries. However, after causing the accident, the

respondent-driver ran away from the spot along with truck. The accident was caused due to rash and negligent driving of respondent No.1 i.e. the driver of the truck. After the accident, the claimant was taken to the hospital by her husband Jai Ram (PW2). On basis of statement of claimant recorded in the hospital on 19.05.2003, the number of offending vehicle was reported as HR-41A-1055. While appearing as PW1, the appellant-claimant Karnailo Devi has categorically stated that the truck was being driven by the respondent-accused in a rash and negligent manner and it struck against her. In the FIR, PW1 (claimant) has categorically given the number of the offending vehicle as HR-41A-1055. Similarly, in the statements under Section 161 Cr.PC, PW2 and PW5 have also stated the same number. In the said accident, the claimant suffered injuries on various parts of her body and her left hand was amputated, whereas her right arm was fractured. She was taken to the Mission Hospital, Pehowa where she remained admitted for about a month.

The appellant-claimant has produced Dr. C.R. Khatri as PW3 who was a member of the Disability Board. The Board had examined the claimant and assessed her disability to the extent of 60% which was attributed on account of dis-articulation of left wrist joint as shown in Ex.P1. Accordingly, the Tribunal has awarded total compensation of Rs.99,800/- to the claimant which includes Rs.9,800/- on account of medical bills, whereas Rs.30,000/- were granted on account of pain and suffering, special diet as well as transportation. In this manner, a total compensation of Rs.99,800/- was granted to the claimant.

Learned counsel for the appellant-claimant has argued that the compensation awarded by the Tribunal is on lower side. Rather, higher amount of compensation was required to be awarded. He has submitted that in the accident, left hand of the claimant had been amputated, whereas there was a fracture in her right arm. She had to remain in hospital for about a month or so. The disability to the extent of 60% has been pointed out by Dr. C.R. Khatri (PW3), but the Tribunal has failed to appreciate this evidence.

On the other hand, learned counsel for the respondent No.1-driver has stated that considering the nature of injuries, the Tribunal has already compensated the appellant-claimant adequately and no amount of compensation is required to be enhanced.

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

The accident as well as the injuries caused to the appellant-claimant have not been disputed by the parties. The record reveals that the appellant suffered disability to the extent of 60% and for that disability, a sum of Rs.60,000/- had been granted by the Tribunal, which this Court finds as inadequate.

Having applied the principle of compensation @ Rs.2,000/- for 1% disability, this Court finds that the compensation under the head of disability is required to be enhanced. Accordingly, the awarded amount of compensation of Rs.60,000/- under the head of permanent disability is increased to Rs.1,20,000/- (Rupees one lakh and twenty thousand only).

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

February 28, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No