

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

FAO-1157-2006 (O&M)
Date of decision: 11.10.2017

Sona Devi

.... Appellant

Versus

Jai Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.R.S.Mamli, Advocate
for the appellant.

Mr. R.C.Kapoor, Advocate
for respondent No.3.

Avneesh Jhingan, J.

The present appeal has been preferred against the award dated 21.11.2005 passed by Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the 'Tribunal').

This case was a burnt case and the record has been reconstructed from the salvaged record and the copies supplied by the counsel subject to just exception.

On 15.07.2004, Sona Devi, aged 54 years was struck by scooter bearing registration No.HR-02D-7658 (for short, 'the offending vehicle'). The offending vehicle was being driven in a rash and negligent manner by Jai Singh. As a result of the accident, Sona Devi suffered injuries and was taken to C.H.C. Sadhaura. From there, she was referred to Civil Hospital,

Yamuna Nagar. FIR No.95 dated 24.07.2004 was registered at Police Station Sadhaura.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.54,000/- along with interest @ 7.5% per annum.

Aggrieved of the said order, the present appeal has been filed for enhancement of compensation.

I have heard the learned counsel for the parties and perused the paperbook and record with their able assistance.

Learned counsel for the appellant has argued that the appellant remained hospitalised for 20 days. She was operated upon and a rod was inserted in her right arm. There was a follow up treatment also. Learned counsel contended that she used to keep two buffaloes and sell milk, such work she is not able to do after the injury. MLR Ex.P9 and the disability certificate Ex.P2 were produced. Dr. Rajbir Singh, Medical Superintendent, Civil Hospital, Yamuna Nagar deposed before the Tribunal that she suffered 8% permanent physical impairment because of fracture shaft humerus with mild pain and loss of functioning. He further contends that the compensation under the various heads has not been awarded by the Tribunal.

Learned counsel for the respondent defended the award and argued that the income was not proved by the appellant by examining any witness that she was selling milk. He further argued that bills of the

medical expenses Rs.13,000/- were produced but the Tribunal has granted Rs.20,000/-. He contends that the compensation for pain and suffering has also been taken care of. He contends that for 8% permanent disability, Rs.24,000/- has been awarded. He resisted any further enhancement.

In case of a housewife, 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 housewife/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.”

In the above decision, it has been laid down that the contribution of house wife cannot be under estimated in monetary terms.

In the present case, assuming that appellant failed to establish that she was rearing buffaloes and selling milk, her contribution as the housewife cannot be doubted. Permanent disability would be effecting her household work also.

Hon'ble the Apex Court in **G. Ravindranath @ R. Chowdary Versus E. Srinivas and another, 2013(12)SCC 455**, held as under:

"It is settled law that compensation in personal injury cases should be determined under the following heads:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food and miscellaneous expenditure.

(ii) Loss of earnings (and other gains), which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

12. In routine personal injury cases, compensation will be awarded only under head (i), (ii) (a) and (iv). It is only in

serious cases of injury, where there is specific medical evidence corroborating the evident of the claimant, that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life."

A perusal of the above decisions shows that in case of injury pecuniary damages (special damages) should be given under various heads. It was further held that non-pecuniary damages should also be compensated.

As per the above decisions referred above and keeping in view the facts of the case, the amounts awarded by the Tribunal are on the lower side and certain heads has not been taken care of, while awarding the compensation. The amount awarded by the Tribunal is enhanced and amounts not awarded under various heads are awarded as per table given below :-

<i>Sr.No.</i>	<i>Heads</i>	<i>Amount earlier awarded by the Tribunal</i>	<i>Now awarded</i>
1	Medical expenses	Rs.20,000/-	Rs.20,000/-
2	Future loss	Rs.24,000/-	Rs.24,000/-
3	Suffering	Rs.10,000/-	Rs.25,000/-
4	Special diet	Not awarded	Rs.10,000/-
5	Attendant charges	Not awarded	Rs.10,000/-
6	Transportation	Not awarded	Rs.7500/-
7	Follow up treatment	Not awarded	Rs.5,000/-
	Total	Rs.54,000/-	Rs.1,01,500/-

The award dated 21.11.2005 is modified to the extent that the

amount awarded by the Tribunal of Rs.54,000/- is enhanced to Rs.1,01,500/-.

The appellant shall be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

11.10.2017
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1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : Yes