

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

**FAO No.3915 of 2011 (O&M)
Date of decision: September 18, 2017**

Sunehri Devi

....Appellant

Versus

PRTC and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Anupam Singla, Advocate
for respondents No.1 and 2-PRTC.

Presence of respondent No.3 dispensed with
(*vide order dated 10.04.2013*).

AVNEESH JHINGAN, J.(ORAL)

The present appeal arises out of the award dated 01.12.2010 passed by the Motor Accidents Claims Tribunal, Chandigarh (for short 'the Tribunal').

2. The present appeal has been filed by Sunehri Devi who lost both her legs in an accident which took place on 12.04.2008. This appeal is only for enhancement of compensation of ₹2,77,000/- granted by the Tribunal.

3. The brief facts noted are that on 12.04.2008 at about 08.15 a.m. when the appellant was crossing the chowk near Bus Stand Derabassi, a bus of PRTC bearing registration No.PB-11-9175 (for short 'the offending vehicle') struck her. As a result of the accident, both her legs were crushed under the wheels of the offending bus. The bus driver ran away after the accident, leaving the bus at the spot.

The claimant was moved to Civil Hospital, Derabassi from where she was referred to PGI, Chandigarh where her both legs were amputated from thighs. Ex.P-58, the disability certificate of 90% of the lower limbs was produced.

4. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

5. Learned counsel for the appellant argued that the appellant is 65 years old lady who lost her both legs and it is certified that she has 90% permanent disability of lower limbs. The main grievance is that no amount for loss of future income has been granted and the amount awarded under the pecuniary and non-pecuniary heads are on the lower side.

6. Learned counsel for the respondent argued that she has already been granted Rs.1,80,000/- for the permanent disability and the amounts awarded under the various heads are more than enough for 65 years old lady. There should not be any compensation for loss of the future prospects.

7. The contention raised by the learned counsel for the appellant deserves acceptance. The 65 years old lady may be housewife but her contribution to the family cannot be under-estimated.

8. The Hon'ble Supreme 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 a 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 recognised 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 dependency."

9. In view of the law laid down by the Hon'ble Supreme Court, it is appropriate that her notional income be taken as ₹3,000/- per month and since the permanent disability is of 90% of the lower limbs, same is taken as loss of 60% of the income. The loss of future income is calculated as $3000 \times 60\% = \text{Rs.}1800/-$, annual loss of income is $1800 \times 12 = ₹21,600/-$, and she being 65 years of age, multiplier of 7 is applied $(1800 \times 12 \times 7) = ₹1,51,200/-$.

8. The Hon'ble Supreme Court in **G. Ravindranath @ R. Chowdary Versus E. Srinivas and another, 2013(12)SCC 455**, has 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 heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence 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.”*

In view of the aforesaid decisions of Hon'ble the Supreme Court, in case of non-fatal injuries, the person is to be compensated for pecuniary and non-pecuniary losses.

Keeping in view of the law laid down and the facts of the case, the amounts awarded to the claimant by the Tribunal are enhanced as under:-

Sl No.	Heads	Amount awarded by the Tribunal	Amount now awarded
1	Loss of Future prospects	Not awarded	151200
2	Medical bill	37000	37000
3	Disability	180000	180000
4	Special diet	15000	25000
5	Transportation Expenses	20000	30000
6	Attendant	25000	35000
7	Pain and suffering	Not awarded	25000
	Total	277000	483200

The award dated 01.12.2010 is modified to the extent that amount of ₹2,77,000 awarded by the Tribunal is enhanced to ₹4,83,200/-.

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

The appeal is, accordingly, partly allowed, in the aforesaid terms.

September 18, 2017
m. sharma

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No