

In the High Court of Punjab and Haryana at Chandigarh

**F.A.O No. 2167 of 2014 (O&M)
Date of Decision: 01.5.2017**

Santosh Devi

.....Appellant

Versus

Sukhbir and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Kumar Yadav, Advocate
for the appellant.

Mr. Vishal Kashyap, AAG, Haryana.

Mr. Banni Thomas, Advocate
for respondent No. 4.

ANITA CHAUDHRY, J

This appeal has been filed by the appellant seeking enhancement in the compensation which had been allowed for the disability. The appellant had been directed to appear before the Department of Orthopedics in PGI, Rohtak.

Counsel for the appellant says that the appellant had appeared before PGI, Rohtak and her disability was re-assessed at 70%. The copy of the same is available with the State counsel. Counsel further says that the matter can be decided on the basis of the judgment and the record of the Tribunal is not required.

Counsel for the appellant submits that they are only aggrieved of the amount which was allowed for the disability and though the income was taken as Rs. 5620/- per month as that of a housewife and there was a

disability on account of amputation of the left leg below the knee but the functional disability could not be taken as 15% and the functional disability would be much higher. Reliance was placed upon ***Govind Yadav versus The New India Insurance Company Limited 2011(4) R.C.R. (Civil) 817*** and ***Syed Sadiq Etc. versus Divisional Manager, United India Insurance Company 2014(1) R.C.R. (Civil) 765.***

On the other hand, it was urged that it was for the claimant to show that the functional disability would be higher and the Tribunal had awarded adequate compensation on all the heads and an award of Rs. 8,42,576/- was passed.

Santosh Devi was 35 years old when she met with an accident on 18.10.2012. It led to amputation of the left leg below the knee. She was a housewife and her income was taken as Rs. 5620/- per month which a labourer could earn in that year. The functional disability was taken at 15% which was without any basis. In the case of amputation, the functional disability should be higher and I would take it to be 50% and if the calculations are made again the compensation would come to Rs. $5620/2 = 2810 \times 12 \times 16 = 5,39,520/-$. The Tribunal had awarded Rs. 1,61,856/-. The balance amount of Rs. 3,77,664/- would be payable to the claimant with interest at the same rate that was awarded by the Tribunal from the date of filing of the appeal till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 01, 2017

Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No