

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

FAO No. 5314 of 2014

DATE OF DECISION : 14.09.2017

Rajpati

.... APPELLANT

Versus

Om Parkash and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Rishav Jain, Advocate,
for the appellant.

Mr. D.P.S. Bajwa, Advocate,
for respondents No.1 and 2.

Ms. Anamika Mehra, Advocate,
for respondent No.3.

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AVNEESH JHINGAN, J. (Oral)

The present appeal is filed against the award dated 05.03.2013 passed by the Motor Accident Claims Tribunal, Jind (for short 'the Tribunal').

2. Rajpati wife of Ram Kumar resident of village Chappra, District Sonapat suffered fracture of her left foot and left arm. In MLR Ex.P17, the injuries were said to be grievous in nature. She was struck by truck bearing registration No. RJ-21G-2821 (for short 'the offending vehicle') which was being driven in a rash and negligent manner.

3. A claim petition under Section 166 of the Motor Vehicles Act,

1988 was filed by the claimant claiming compensation for the injuries.

4. The Tribunal, after considering the evidence and witnesses, awarded a sum of ₹ 85,000/- as compensation to the appellant under the following heads :-

<i>Head</i>	<i>Amount awarded</i>
Medical expenses	₹ 50,000/-
Conveyance charges	₹ 2,000/-
Special diet & Attendant	₹ 3,000/-
Loss of earning	₹ 5,000/-
Pain and suffering	₹ 15,000/-
Future treatment expenses	₹ 10,000/-
Total	₹ 85,000/-

The said amount was awarded along with interest at the rate of 7% per annum.

5. Aggrieved of the said award, the claimant filed the present appeal for enhancement of compensation.

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

7. The facts have not been disputed by learned counsel for the parties. The only issue is regarding enhancement of compensation.

8. The appellant, who is 55 years old household lady, suffered fracture on the left arm and left foot. She was operated upon and was hospitalized for 13 days, i.e. from 14.08.2011 to 27.08.2011. Dr. Ajay Goel (PW.2) deposed before the Tribunal and filed his affidavit Ex.PW-2/A. The appellant produced bills, Ex.P3 to Ex.P16, with regard to the surgery,

implant and medicines. Total sum of these bills is ₹ 49,567/-. Further, for follow-up treatment, I have perused these receipts, total of which comes to approximately ₹ 1.00 lac. The Tribunal restricted the claim only to ₹ 50,000/- towards medical expenses, by observing that though follow-up treatment receipts have been produced but no medical record regarding follow-up treatment has been produced. It is not disputed that the appellant suffered grievous injuries and was operated, she was hospitalized, in such circumstances, the follow-up treatment is to be taken into consideration. Therefore, the amount awarded under the head 'medical expenses' is enhanced to ₹ 1.00 lac.

9. Further, the conveyance receipts, Ex.P18 to Ex.P28, were also produced, but the same were not considered by the Tribunal, as no body was examined to prove these receipts. It would be apparent that with a fractured foot and fractured arm, conveyance would have been needed by the appellant. Keeping in view this fact, the amount of ₹ 2,000/- awarded by the Tribunal as conveyance charges is very meager and is, therefore, enhanced to ₹ 10,000/-.

10. For 13 days, during which the appellant remained admitted in hospital, and subsequent thereto, for the recovery period, minimum one attendant would have been required by the appellant. Therefore, the amount of ₹ 3,000/- awarded by the Tribunal for special diet and attendant is enhanced to ₹ 10,000/-.

11. With regard to compensation under the head 'loss of earning',

the value of services rendered by a house-wife was considered as ₹ 2,500/- per month and the appellant was awarded a sum of ₹ 5,000/- for two months, during which she would have remained out of work due to the injuries suffered by her. I have considered this aspect of the matter. The appellant was a house wife. A house wife does not work by the clock and her services are 24 X 7, which cannot be assessed in terms of money.

12. 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 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."

Keeping in view the aforesaid observations of the Hon'ble Apex Court and considering the services rendered by the appellant, the amount of ₹ 5,000/-

awarded by the Tribunal is enhanced to ₹ 10,000/-.

13. Further, keeping in view the nature of injuries suffered by the appellant and the fact that she was operated, a sum of ₹ 15,000/- awarded on account of pain and suffering also requires enhancement and the same is enhanced to ₹ 20,000/-.

14. However, the amount of ₹ 10,000/- awarded by the Tribunal towards future medical expenses is just and reasonable, and the same does not require any interference.

15. The net effect of the aforesaid discussion is that the compensation awarded by the Tribunal under various heads is enhanced as under :

Head	Awarded by the Tribunal	Awarded now by this court
Medical expenses	₹ 50,000/-	₹ 1,00,000/- (enhanced by ₹50,000/-)
Conveyance charges	₹ 2,000/-	₹ 10,000/- (enhanced by ₹ 8,000/-)
Special diet & Attendant	₹ 3,000/-	₹ 10,000/- (enhanced by ₹ 7,000/-)
Loss of earning	₹ 5,000/-	₹ 10,000/- (enhanced by ₹ 5,000/-)
Pain and suffering	₹ 15,000/-	₹ 20,000/- (enhanced by ₹ 5,000/-)
Future treatment expenses	₹ 10,000/-	₹ 10,000/- (no enhancement)
Total	₹ 85,000/-	₹ 1,60,000/- (enhanced by ₹75,000/-)

Hence, the award dated 05.03.2013 passed by the Tribunal is modified to

16. Appeal is partly allowed, in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

Yes

Yes