

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4132 of 2015 (O&M)

Date of Decision: 20.11.2017

Kanta

.....Appellant

Versus

Sunder and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Raghav Sharma, Advocate
for the appellant.

Mr. M.B. Jain, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.

The present appeal has been filed being aggrieved of the award dated 21.2.2015 in MACT Case No. 115/13 of 2014 passed by Motor Accidents Claims Tribunal, Karnal (for short 'the Tribunal').

The appellant has come against the award dated 21.2.2015 for enhancement of the amount awarded of Rs.38,800/- along with interest at the rate of 9% per annum.

In a motor vehicular accident that occurred on 16.6.2011, Kanta, aged 32 years, suffered injuries including fracture. She was a pillion rider on a motor cycle bearing registration No. HR-05-T-0194 being driven by her husband Ishwar Singh. The said motor cycle was struck by rashly and negligently driven Tata 407 bearing registration No. HR-45-A-4101. FIR No. 154 dated 17.6.2011 was registered at Police Station Pundri.

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

1988 (for short 'the Act') was filed. It was claimed that there was 10% disability for which disability certificate Ex.P1 was produced. Doctor deposed that Kanta had suffered mal-united fracture pelvis with fracture Astabolum with persistent pain and limping.

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

Learned counsel for the appellant has argued that the amount awarded for medical expenses is on lower side as it has not been taken into consideration that future treatment would be required. He further argued that the Tribunal while awarding the amount for pain and suffering, special diet, transportation, the same has not considered that the appellant was having persistent pain and was limping.

Learned counsel for the Insurance Company defended the award and contended that the appellant had failed to prove before the Tribunal that this disability has effected her day-to-day working. He further argued that the occupation of the appellant was not proved before the Tribunal.

While considering the cases of motor vehicular accident especially where there are non-fatal injuries, it has to be kept in mind that the claimant has suffered because of no wrong done by her but because of act done by a wrong doer. The object to be achieved is to put the injured in a original position so far as money can. The contention of learned counsel for the Insurance Company that the occupation of the appellant was not proved, cannot be accepted as it has not been disputed that she was a married lady, meaning thereby she was a house maker and this itself is a whole time job.

She was hospitalized for six days and even after her recovery, the Doctor

deposed that there was persistent pain and limping. She suffered 10% disability. All this would have hindered her day-to-day working as a house-maker. Her family would be suffering as she would not be in a position to perform her duties as she did earlier. With Pelvis fracture, attendant and transportation would be required not only during the period of hospitalization but thereafter also. Since there is mal-united fracture and pain and limbing, there would be some expenses for future treatment also. Some support or attendant would be required after hospitalization as she is stated to be limping.

While awarding the amount for pain and suffering, the issue to be considered is that it is not only the physical pain, but it includes trauma, harassment and mental agony.

In the present case, the pain has not ended even after her discharge from the hospital as the pain persisted.

Keeping in view the above facts, the amounts awarded by the Tribunal are enhanced as under:

<i>Sr. No.</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount now awarded</i>
1	Medical expenses Rs.38,00/-	Rs.10,000/-
2	Pain and suffering Rs.10,000/-	Rs.40,000/-
3	Attendant charges, special diet, transportation Rs.5000/-	AttendentCharges Rs.15,000/- Special diet Rs.10,000/- transportation Rs.25,000/-
4	Permanent disability Rs.20,000/-	Rs.30,000/-
Total	38800/-	Rs.1,30,000/-

The award dated 21.2.2015 is modified to the extent that an amount of Rs.38800/- awarded by the Tribunal is enhanced to Rs.1,30,000/-.

The claimant shall be entitled to enhanced amount along with

interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the aforesaid terms.

20.11.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No