

222.

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

FAO-66-2014 (O&M)

Date of decision:17.04.2017

SONIA BANSAL

... Appellant

versus

JAGDEV SINGH & ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. A.S. Walia, Advocate,
for Mr. R.S. Jhand, Advocate,
for the appellant.

Ms. Sheenu Sura, Advocate,
for respondent No.2-Insurance Company.

HARI PAL VERMA, J. (Oral)

CM-60-CII-2014

Prayer in the application filed under Section 5 of the Limitation Act is for condonation of delay of 80 days in filing the present appeal.

For the reasons stated in the application, same is allowed and the delay of 80 days in filing the present appeal is condoned.

FAO-66-2014

The appellant-claimant-injured, namely, Sonia Bansal, has filed the present appeal seeking enhancement of compensation in the award dated 05.02.2013 passed by the Motor Accident Claims

Briefly stated, on 13.10.2008 at about 7.30 PM, the appellant-claimant was coming from Mohali to Chandigarh on her Kinetic Honda Scooter bearing registration No.HR-03-A-2104 at slow speed on left side of the road, along with her husband, who was on pillion seat. When they tried to cross the round about of Sectors 39-40, one Tata Indigo Car bearing registration No.CH-03-W-5676 came from the side of Police Station, Sector 39, Chandigarh, being driven by Jagdev Singh (respondent No.1) in a rash and negligent manner and struck against her scooter. As a result thereof, the claimant and her husband along with the scooter fell down on the road and the claimant suffered grievous injuries on her left knee and multiple injuries on other parts of the body. The driver of the said Indigo Car lifted the claimant to Civil Hospital, Phase VI, Mohali, where some officials of said hospital were known to respondent No.1 and they managed to befool the claimant. Respondent No.1 apologized and requested the claimant that he will bear all the expenses of treatment. Thereafter, the matter was reported to the police and a case vide FIR No.17 dated 11.01.2009 was registered against respondent No.1 for the offence under Sections 279, 337 of Indian Penal Code in Police Station Sector 39, Chandigarh. Hence, the claim petition was filed.

In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation on account of injuries sustained by the claimant i.e. injury on the left knee joint, for which, she was operated upon, the Tribunal has awarded compensation as

under:-

Sr. No.	Head under which amount awarded	Amount
1.	Loss of earning	Rs.8,000.00
2.	Compensation on account of expenses incurred on medical treatment.	Rs.29,949.00
3.	Compensation on account of pain and suffering.	Rs.5,000.00
4.	Compensation on account of nutritious diet.	Rs.3,000.00
5.	Expenses incurred on transportation.	Rs.2,000.00
	TOTAL:	Rs.47,949.00

Dissatisfied with the aforesaid award, the claimant (appellant) has filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellant-claimant has argued that the injured remained in hospital for quite a long time and, therefore, the Tribunal has not awarded adequate compensation on account of loss of earning, pain and suffering, diet and transportation, for which, necessary enhancement is required.

On the other hand, learned counsel for the respondent No.2- Insurance Company has argued that the Tribunal has adequately compensated the claimant-injured and has awarded just compensation. The total medical reimbursement as proved by the claimant has been awarded. Considering the nature of injury, the Tribunal has awarded ₹ 8,000/- on account of loss of earning and, therefore, no interference is required in the well reasoned awarded given by the Tribunal.

I have heard learned counsel for the parties.

As per the appellant-claimant's treatment record i.e. Exs.P3

to P12, it is not in dispute that the claimant sustained injury in the left

knee joint and for this injury, she was operated upon. PW2-Dr. Mohinder Kaushal, has stated that he had done arthroscopic assistant fixation of Bony Avulsion of ACL knee left with a cancellous screw. Therefore, it is not possible that immediately after surgery, the claimant-injured shall resume her work and for such like of treatment, she needs considerable time to re-equip for her routine work. Therefore, the loss of earning as assessed by the Tribunal at ₹8,000/- deserves to be increased as ₹16,000/-. Similarly, other additions under the head of pain and suffering, special diet and transportation are also deserve to be increased. Therefore, instead of ₹5,000/- towards pain and suffering, the claimant is held entitled to ₹10,000/- for pain and suffering. For special diet, the claimant deserves ₹6,000/- instead of ₹3,000/- and for transportation, she is entitled for ₹5,000/- instead of ₹2,000/-. In this manner, the compensation is increased by ₹19,000/- over and above the award passed by the Tribunal.

With the aforesaid modification, present appeal is disposed of.

(HARI PAL VERMA)
JUDGE

17.04.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No