

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.5174 of 2015 (O&M)
Date of decision: March 27, 2017

Radhika ...Appellant

Versus

Parwinder Singh & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate for appellant in FAO-5174 &
for respondent No.1 in FAO-3177.

Ms. Harsh Rekha Kapoor, Advocate for respondents No.1 & 2.

Mr. Puneet Jain, Advocate for Shriram General Ins. Co.

Ms. Jaideep Kaur, Advocate for respondent No.5.

Mr. Subhash Goyal, Advocate for Reliance General Ins. Co.

Rajan Gupta, J.(oral)

This order shall dispose of two appeals i.e. FAO No.5174 of 2015 and FAO No.3177 of 2015, one preferred by claimant Radhika and other by Reliance General Insurance Company Ltd., against the award dated 05.01.2015, passed by Motor Accident Claims Tribunal, Chandigarh.

Appellant was about 21 years old at the time of accident. Her right arm has been amputated. Accident took place on 01.04.2012. Appellant was travelling in a bus. At that time a Canter came from the opposite direction at a fast speed. It struck the bus. Appellant, who was a

passenger in the bus, received multiple injuries. In view of one grave injury suffered on the arm, her right arm had to be amputated. On a claim being lodged, tribunal came to the conclusion that accident occurred due to rash and negligent driving by driver of the Canter. It, thus, proceeded to assess the compensation. Same was assessed as below:-

Sr. No.	Head	Amount (₹)
1.	Medical charges	₹72,273/-
2.	Transportation charges	₹10,000/-
3.	Compensation for engaging an attendant	₹10,000/-
4.	Compensation for special diet	₹10,000/-
5.	Pain and suffering	₹50,000/-
6.	Compensation for loss of enjoyment	₹50,000/-
7.	Compensation for permanent disability	₹11,01,600/-
8.	Compensation for artificial limb	₹2,00,000/-
		Total ₹15,03,873/-

It has been urged by counsel for appellant/claimant that compensation granted on account of pain and suffering and for artificial limb on the lower side. Besides, the aspect that injured may not have any marriage prospects, has not been taken into consideration. Appellant is stated to have been working as Beautician with LAKME Beauty Salon, Panchkula and earning Rs.6000/- per month at the time of accident. According to learned counsel, her future prospects have been marred. Some compensation ought to have been granted under this head. I find substance in the plea. I feel that ends of justice would be met if compensation on account of pain and suffering is enhanced to Rs.2,00,000/-. It is evident that injured would require an advanced artificial limb to remain gainfully

employed. Compensation for same needs to be enhanced by another Rs.3,00,000/-. As the marriage prospects of the appellant has been marred, she is entitled to compensation of another sum of Rs.2,00,000/- on this count.

Counsel for the appellant has urged that future prospects are also to be taken into consideration @ 50%. Without entering into detailed calculation, he submits that appellant would be satisfied if another sum of Rs.3,00,000/- is granted under this head. I accept this plea and order accordingly. In this way, total enhanced compensation would come to ₹9,50,000/-. The appellant/ claimant would also be entitled to interest as awarded by the tribunal. Appeal of claimant is allowed in these terms. Award of the tribunal is modified to this extent. Rest of the award is maintained as such.

As far as plea of Reliance General Insurance Company Limited that there was contributory negligence on part of the driver of the bus, I find no substance in the same. The evidence has been correctly analyzed by the tribunal. It has come on record that canter was being driven at a high speed, rashly and negligently. Thus, tribunal has rightly fixed the responsibility on the appellant Reliance General Insurance Company Limited to indemnify the claimant. Appeal of the insurance company is dismissed.

(RAJAN GUPTA)
JUDGE

March 27, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No