

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

**FAO No.4527 of 2016 (O&M)  
Date of decision: 20.12.2017**

Ms. Nisha Rani

....Appellant

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ashwani Arora, Advocate,  
for the appellant.

Mr. Vinod Gupta, Advocate,  
for respondent No.4-Insurance Company.

**RITU BAHRI J. (Oral)**

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter referred to as 'the Tribunal') vide award dated 03.11.2015, on account of injuries received by her in a motor vehicular accident which took place on 21.12.2013.

Brief facts of the case are that on 21.12.2013, claimant-appellant (Nisha Rani) had come from Jagadhari to Zirakpur by bus. After alighting from the bus at Zirakpur, she was going on foot towards Metro Zirakpur. In the meantime, a bus bearing registration No. HR-58-A-8207 being driven by respondent No.3-Sheesh Pal in a rash and negligent manner, came from behind and hit the claimant, as a result of which, she (claimant) fell down and received injuries. She was shifted to J.P. Hospital, Zirakpur, from where she was referred to PGI, Chandigarh. With regard to the accident, FIR was registered against driver-respondent No.3. Consequently, the claimant-appellant filed a claim petition before the

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending bus by its driver-respondent No.3 and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Ms. Nisha Rani-claimant (PW-1) and the fact that FIR was registered against respondent No.3. Ultimately, the claim petition was accepted by the Tribunal and compensation was assessed as under:-

| Sr. No. | Heads                                     | Amount (Rs.)         |
|---------|-------------------------------------------|----------------------|
| 1.      | Expenditure of ailment (Medical Expenses) | Rs.1,24,441/-        |
| 2.      | Pain and sufferings                       | Rs.10,000/-          |
| 3.      | Special Diet                              | Rs.10,000/-          |
| 4       | Transportation charges                    | Rs.5,600/-           |
| 5       | Lump-sum-damages for limb disability      | Rs.50,000/-          |
|         | <b>Total</b>                              | <b>Rs.2,00,041/-</b> |

Hence, the claimant was found entitled to a total compensation of Rs.2,00,041 /- along with interest at the rate of 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

Learned counsel for the appellant has referred to the disability certificate and contended that there was shortening of leg of claimant. She had suffered 30% physical impairment. He further argued that compensation for disability should have been granted after applying the method of income criteria.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 to the

effect that the accident had taken place on account of rash and negligent driving of the offending bus by its driver.

Hon'ble the Supreme Court in **Sayed Mehaboob vs. New India Assurance Co. Ltd.**, 2012 (8) RCR (Civil) 721 had examined a case, where the claimant had suffered 86% disability on account of shortening of leg by 2.5 inches. In that case, the appellant was unable to use both his legs for driving. The Tribunal had assessed the functional loss of future earning capacity of the appellant to the extent of 100% and awarded compensation accordingly. On appeal, the High assessed the total bodily disability at 30% and reduced the compensation, which was awarded by the Tribunal. Hon'ble the Supreme Court, after taking into consideration the relevant factors, upheld the award passed by the Tribunal and set aside the judgment of the High Court being arbitrary in nature.

In the present case, as per disability certificate, claimant-appellant has suffered 30% permanent physical impairment and her left leg has been shortened. She was 21 years of age at the time of accident and was unmarried. She was taking coaching for banking from Bulls Eye, near Madhu Hotel, Yamunanagar. Therefore, keeping in view the nature of disabilities suffered by the appellant and in view of the judgment passed in **Sayed Mehaboob's case** (supra), the functional loss of future earning capacity of appellant is being estimated at 50%. Compensation, in this case, has to be awarded by applying the method of income criteria. The accident had taken place on 21.12.2013 and as per minimum wages prevalent at that time, income of injured-appellant is assessed as Rs.5500/- per month i.e. Rs.66,000/- per annum. After applying the multiplier of 18, loss of income due to permanent disability comes to  $\text{Rs.66,000} \times 50/100 \times 18 = 5,94,000/-$ .

Compensation under the other heads has rightly been awarded by the Tribunal. Hence, keeping in view the peculiar circumstances, in which the injured-claimant had been put, the compensation is hereby re-assessed as under:-

| Sr. No. | Heads                                                                             | Amount (Rs.)                                  |
|---------|-----------------------------------------------------------------------------------|-----------------------------------------------|
| 1       | Expenditure of ailment (Medical Expenses)                                         | Rs.1,24,441/-                                 |
| 2       | Pain and sufferings                                                               | Rs.10,000/-                                   |
| 3       | Special Diet                                                                      | Rs.10,000/-                                   |
| 4       | Transportation charges                                                            | Rs.5,600/-                                    |
| 5       | Damages for limb disability (loss of earnings on account of permanent disability) | Rs.5,94,000/-                                 |
| 6       | <b>TOTAL COMPENSATION AWARDED</b>                                                 | <b>Rs.7,44,041/-</b>                          |
|         | <b>Enhanced amount of compensation</b>                                            | <b>Rs.7,44,041 – 2,00,041 = Rs.5,44,000/-</b> |

The enhanced amount of compensation of **Rs.5,44,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)  
JUDGE

20.12.2017  
ajp

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No