

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-21852-CII-2018 in/and
FAO-5960-2002 (O&M)
Date of Decision : 09.10.2018

Anita @ Nita

..... Appellant

Versus

Sukhbir Singh and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Sandeep K. Sharma, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for the respondent No.3-insurance company.

AJAY TEWARI, J. (ORAL)

CM-21852-CII-2018

This is an application for early hearing of the appeal.

Notice of the application to respondent No.3-insurance
company.

Mr. Gupta, counsel for the respondent No.3 states that he has
no objection if this application is allowed.

Application is allowed. The appeal is taken up for hearing
today itself.

FAO-5960-2002 (O&M)

This appeal has been filed for enhancement of compensation and for modification of the award dated 31.07.2002 passed by the Tribunal awarding Rs.15,000/- towards pain and suffering, Rs.25,000/- towards loss of amenities of life, Rs.15,000/- towards loss of expectation of life, Rs.15,000/- towards inconvenience and mental stress in life i.e. total amount of Rs.84,157/- alongwith interest @ 9% p.a. on account of injuries received by the appellant in an accident.

Counsel for the appellant has argued that only an amount of Rs.25,000/- has been awarded on account of permanent disability and an amount of Rs.55,000/- more has to be awarded under this head. Counsel for the insurance company has fairly accepted this fact. In the circumstances, I award Rs.55,000/- more towards permanent disability.

Counsel for the appellants has further argued that even if the appellant is taken to be a housewife, the Tribunal has erred in not taking the contribution of the appellant whereas the Hon'ble Supreme Court in **Lata Wadhwa and others v. State of Bihar and others** reported as 2001(4) RCR(Civil) 673 (where the accident had taken place in 1989) had evaluated the contribution of a house wife at Rs.3000/-per month. In the circumstances, to my mind the contribution cannot be less than Rs.6000/- p.m. in a case where the accident took place in the year 2000. Consequently, I fix the contribution at Rs.6000/- p.m.

Further counsel for the appellant has argued that multiplier of 18 has to be applied as the appellant was 25 years of age at the time of accident and has relied upon **Sarla Verma and others v. Delhi Transport**

Corporation and another, 2009 ACJ 1298. Counsel for the insurance company is not in a position to deny this fact. Consequently, I hold that multiplier of 18 has to be applied.

Though the disability is 40%, I assess the functional disability at 20% due to shortening of right leg because of the gap of 4 inches in the right Tibia with Ostomyrites.

Counsel for the appellant has further argued that only an amount of Rs.15,000/- has been awarded on account of pain and suffering which is highly inadequate. I find this to be indeed so. Consequently, I award Rs.35,000/- more towards pain and suffering.

In view of the judgment of the Supreme Court in *Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018*, it is held that the total compensation amount would carry interest @ 12% p.a. from the date of filing of the claim petition till the date of realization. Rest of the award shall remain unchanged.

Appeal stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 09, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No