IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2666 of 2000 (O&M)
Date of Decision.27.04.2018

Swapna Mohanty ......Appellant

Vs

B.P. Mahapatra and another .....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Anupam Bhanot, Advocate and
Mr. Roshan Lal Sharma, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.2.

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AMIT RAWAL J.(ORAL)

Reply filed behalf of the insurance company is taken on record.

The present appeal has been preferred by the claimant seeking enhancement of compensation for the injuries suffered by her in a motor accident held on 12.04.1998. The claimant was travelling in a maruti zen car bearing No.CH-01-T-7686 driven by respondent No.1, who was driving the same in rash and negligent manner and as a result which, the ill-fated vehicle fell down in 200-250 feet gorge. She received multiple grievous injuries i.e. dislocation of C-6, C-7 vertebra, facture of spinal cord and dislocation & fracture of spinal compression. Initially, she remained admitted in PGI from 12.04.1998 to 28.04.1998 and after that got treatment from various hospitals. She was a householder of 35 years of age at the time of accident.

The Tribunal while assessing the compensation awarded a compensation of Rs.2,22,261/- under the following heads:-

(i)	Medical expenses	:	₹89,261/-
(ii)	Pain and suffering	:	₹50,000/-

(iii)	Future medication	:	₹30,000/-
(iv)	Disability	:	₹40,000/-
(v)	Wheel chair	:	₹13,000/-
	Total	:	₹2,22,261/-.

Ms. Anupam Bhanot and R.L. Sharma, learned counsel appearing on behalf of the appellant submitted that the Tribunal has gravely erred in providing a meager sum of ₹40,000/- towards disability whereas the future loss of income ought to have been assessed by applying the multiplier suitable to the age of the claimant on the income proportionate to the extent of disability. In the present case, the claimant was assessed to be 100% disabled, therefore, the loss of earning is required to be assessed by applying the formula. The other heads of claim are also on lower side, much less, nothing has been provided towards attendant charges, special diet, transportation etc., thus, there is scope for enhancement.

Per contra, Mr. Suvir Dewan, learned counsel appearing for the insurance company submits that there is no scope for further enhancement as all the heads of claim are take care of by the Tribunal, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. It is a heart-wrenching case where a young lady of 35 years crippled to bed and in the blossoming days of her life became a burden on her family. As per the disability certificate, she is suffering from total urinary and bowel incontinence, meaning thereby, cannot control bowel movements. The ordeal does not end here as the accident took place in the year 1998 and the present appeal which was filed in the year 2000 is being held out an olive branch in the year 2018 i.e. after 20 years of accident. For a lady, who is passing every day of her life with cursing her fate and leading a life worst than death, a sum of ₹2,22,261/- is mockery.

The claimant is a house-wife, therefore, I will take the income as ₹5000/- and apply a multiplier of 16 to assess the future earning as ₹9,60,000/-. I will retain the medical & wheel chair expenses as provided by the Tribunal i.e. ₹89,261/- and ₹13,000/- respectively. She is bed ridden after accident and needs an attendant 24 hours to get rid of every day's trauma which she has to face. Therefore, I will take the attendant charges as ₹5000/- per month and apply a multiplier of 16 to assess the attendant charges as ₹9,60,000/-. I will increase the pain and suffering from ₹50,000/- to ₹1 lac and provide another ₹1 lac for future medical expenses. I will also provide ₹30,000/- each for special diet and transportation and ₹50,000/- each for loss of amenities of life and reduction in life expectancy. Therefore, the total compensation payable shall be ₹23,82,261/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till its realization. The liability shall remain the same as has already been provided by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal is allowed.

(AMIT RAWAL)
JUDGE

May 02, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No