

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

FAO-2787-2001 (O&M)
Date of Decision : 3.10.2018

Mamta Garg (deceased) through her LRs

....Appellant

vs.

Haryana State Transport controller, Chandigarh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Akshat Mittal, Advocate for
Mr. Sachin Mittal, Advocate
for the appellant.

Dr. Sushil Gautam, DAG, Haryana.

Mr. D.R. Bansal, Advocate
for respondent No.7.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 30.4.2001 passed by Motor Accident Claims Tribunal, Panipat awarding compensation of ₹ 5 lakhs alongwith interest at the rate of 9% per annum on account of injuries sustained by the claimant in an accident.

It may be mentioned here that it has come on record that claimant passed away in the year 2007. I find that at one stage the following order was passed on 17.9.20007 :-

*“CM No.17800-CII of 2007 in
FAO No.2787 of 2001*

*Present :- Mr. Sachin Mittal, Advocate
for the applicants.*

The prayer made in the application is to bring on record the legal representatives of appellant Mamta Garg.

After hearing the learned counsel for the applicants, the prayer made in the application is allowed.

Legal representatives of appellant Mamta Garg is ordered to be brought on record subject to all just exceptions.”

Memo of Parties does not reflect the same. This is probably because the file was burnt and may be the said CM was also burnt in the fire incident.

In the circumstances, Rajinder Parsad son of Om Parkash R/o Badri Bhawan, Kath Mandi, Samalkha is impleaded as LR No.(i) and Kamlesh Gupta wife of Rajinder Parsad R/o Badri Bhawan, Kath Mandi, Samalkha is impleaded as LR No.(ii). Registry is directed to make necessary correction in the Memo of Parties.

Since limited points have been urged detailed reference to the facts is not required.

Learned counsel for the claimant has argued that a sum of ₹ 200000/- had to be awarded for 100% disability as per the judgment of this Court passed in the matter of ***Ram Kiran Goyal vs. Sub Divisional Mechanical 2008 (2) RCR (Civil) 103***. Learned DAG is not in a position to deny this. Consequently, ₹ 200000/- is awarded for 100% permanent disability at the rate of ₹ 2,000/- has to be paid for every per cent of disability.

Learned counsel for the claimant has stated that the accident had taken place on 7.10.1995, claim petition was filed on 18.5.1996 and was decided on 30.4.2001. Consequently, an amount of ₹ 20,000/- which was awarded for special diet for a period of five years was highly inadequate. I

find this to be correct. Consequently, I award ₹ 30,000/- more towards special diet. Counsel has further argued that thereafter also special diet was continued till the date of the death of the claimant i.e. 7.4.2007 and therefore some amount more should be granted. I find this to be a fair request and grant ₹ 60,000/- for special diet for this specific period from 1.5.2001 to 7.4.2007.

Learned counsel for the claimant has argued that a sum of ₹ 40,000/- was awarded for attendant and the fact of the matter is that between the period 7.10.1995 and 7.4.2007 an attendant was required throughout. The Tribunal had awarded ₹ 40,000/- which is highly inadequate. I find this argument also weighty. I deem it appropriate to grant a sum of ₹ 3000/- per month from 7.10.1995 to 7.4.2007 towards attendant charges and ₹ 40,000/- awarded by the Tribunal would be deducted from the amount awarded by this Court.

Counsel for the claimant has further argued that once it was proved that the claimant was a second year medical student and had obtained admission on the basis of merit some amount should be granted on account of future earnings. Learned Deputy Advocate General has pointed out that the deceased was admitted in the academic session 1994-95 and would have completed medical course till 1999. Even if this accepted she would have suffered some loss of income. Counsel for the claimant has relied upon the judgment of the Supreme Court in the matter of *Arvind Kumar Mishra vs. New India Assurance Co. Ltd. and another* 2011 (1) PLR 740 (SC) where future income of an engineering student was taken to be ₹ 5,000/- per month. Learned Deputy Advocate General is not in a position to cite any

contrary judgment. Consequently, I take the income of the deceased as ₹ 5,000/- per month for a period of eight years i.e. 1999-2007 and award ₹ 4,80,000/- under the head loss of income.

Counsel for the appellant has further pointed out that in the judgment of “*Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others*” in *Civil Appeal No. 9581 of 2018* decided on 18.9.2018, the Supreme Court has awarded interest at the rate of 12% per annum on the entire compensation. In view of this judgment, I also award 12% interest per annum on the entire compensation from the date of filing of the claim petition till the date of payment.

The appeal stand disposed of with the abovesaid modifications.

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

3.10.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No