

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

206

FAO-1048-2007 (O&M)
Date of decision: 30.07.2018

CHAMELI

... Appellant

Versus

NARESH KUMAR AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Monika Jangra, Advocate/amicus curiae
for the appellant.

None for the insurance company.

REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 03.01.2004.

The Tribunal has awarded compensation of Rs.1,50,000/-, detailed hereunder:-

1. Reimbursement of medical expenses	Rs.90,000/-
2. Pain and suffering	Rs.15,000/-
3. Special diet	Rs.10,000/-
4. Loss of income	Rs.6000/-
5. Compensation on account of permanent disability	Rs.29,000/-

Counsel for the appellant (appointed as amicus curiae) would urge that compensation allowed by the Tribunal for pain and suffering, special diet, loss of income and on account of permanent disability is grossly inadequate and liable to be enhanced.

It is argued that the claimant sustained serious head injury and she got treatment in Sachdeva Nursing Home, Karnal from 03.01.2004 to 23.01.2004, proved by Dr. Sameer Aggarwal PW5. The injuries rendered her disable to the extent of 20%, proved by Dr. Ved Parkash Gupta PW8 in the light of disability certificate Ex.P34 issued by a medical board comprising of Dr. Ved Parkash Gupta, Civil Surgeon and Medical Superintendent of Civil Hospital at Panipat.

There is no representation on behalf of the insurance company to which notice of motion was issued on 27.11.2015.

I have heard counsel for the appellant, perused the paper book particularly the award.

Before advertng to the submissions made by counsel for the appellant, it is necessary to note that records have been burnt in a fire incident. The arguments have been advanced by Ms. Monika Jangra, Advocate appointed as amicus curiae to assist the Court, therefore, she is not in possession of the documents produced before the Tribunal.

Perusal of statement of Dr. Sameer Aggarwal, taken note by the Tribunal in para 14 of the award, would reveal that Chameli was admitted in Sachdeva Nursing Home, Karnal on 03.01.2004 with head injury. The CT scan showed bilateral frontal haemorrhagic contusions left more than right with fracture of occipital bone with diffuse cerebral oedema with mass effect. On 05.01.2004, left frontal craniotomy was done at left frontal lobectomy under general anesthesia. The patient was discharged on 23.01.2004. As per the testimony of Dr. Ved Parkash Gupta PW8, the medical board referred the patient to Dr. J.P. Saluja, Physician and as per the opinion, injured was suffering from mild to moderate amnesia. There was scarring of right buttock and the board assessed disability to the extent of 20%.

Taking into consideration the nature of injuries sustained coupled with period of treatment as an indoor patient and the fact that the patient has been rendered disable to the extent of 20%, claimant is awarded compensation for pain and suffering to the tune of Rs.20,000/- (additional amount of Rs.5000/-). Compensation allowed by the Tribunal for medical expenses and special diet is ordered to be affirmed. Claimant shall be entitled to compensation qua services of an attendant to the extent of Rs.5000/-. The injured remained hospitalised for a period of 20 days. She must not have been able to discharge her duties as a house-maker for another two months. She is awarded a sum of Rs.12,000/- with regard to

loss of her services during the period of treatment and recovery (additional amount of Rs.6000/-).

Claimant has suffered disability to the extent of 20%. The Tribunal has held that no evidence was led by the contesting respondent to challenge correctness of the disability certificate Ex.P34. However, disability certificate is not available for consideration and appreciation by this Court. Taking functional disability to the extent of 10% and value of services of the victim to the tune of Rs.4000/- per month and by allowing multiplier of 15, loss of income qua disability is assessed at Rs.72,000/- (Rs.4000 x 12 x 15 x 10%).

Total compensation is Rs.2,38,000/- and the additional amount is Rs.88,000/- (2,38,000 – 1,50,000), payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

30.07.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No