

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

FAO No.3929 of 2007 (O&M)

Date of decision: 18.05.2018

Rajni Bala

.... Appellant

Versus

Rajesh Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Dinesh Saini, Advocate for
Mr. Pritam Saini, Advocate
for the appellant.

None for respondent No.2 inspite of service.

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 28.04.2007 passed by Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal').

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsels, subject to all just exceptions.

The brief facts of the case are that on 06.04.2002, Rajni Bala, aged 30 years, along with her two sons was travelling in a tempo bearing registration No.PB-10AU-4128. The said tempo was being driven by Rajesh Kumar @ Raj Kumar. The driver was driving the vehicle in a rash and negligent manner. The driver lost his control and the vehicle fell into 15/20 feet ditch. In the accident, the appellant suffered injuries. She was

taken to CMC Hospital, Ludhiana. She was operated upon. FIR No.28 dated 06.04.2002 was registered at Police Station Bagana.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal after considering the facts of the case and evidence produced, awarded a sum of Rs.1,00,000/- along with interest @ 7.5% per annum.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellant has argued that the appellant remained hospitalised for 20 days in total and she was operated upon thrice. She has suffered a fracture of femur. In such circumstances, the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the insurer of the offending vehicle contended that there was no disability either permanent or temporary. The medical bills, which were proved, were duly reimbursed by the Tribunal and no case is made out for enhancement of compensation.

After hearing learned counsel for the parties, perusing the paper book and record, it is evident that the hospitalisation was there and the appellant was operated upon, was duly proved by deposition of Dr.Stephen M. of CMC Hospital. The appellant was operated upon for fracture of femur. Thereafter, there was a non-union of fracture and bone grafting was done. Albeit, there is no proof on the record to show the employment of a domestic servant or an attendant. But keeping in view the nature of injury, it can be safely assumed that because of the fracture of the leg, she would be needing some attendant and transportation at least during the period of treatment.

In the facts and circumstances of the case, it is deemed appropriate that the amount awarded by the Tribunal is enhanced by Rs.50,000/-. It is clarified that while awarding the said amount, the interest to be awarded under section 171 of the Act has also been taken care of.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

18.05.2018
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1. Whether the order is speaking/reasoned:	Yes/No
2. Whether the order is reportable :	Yes/No