

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO No.4541 of 2012 (O&M)

Date of Decision: February 19, 2018

Deepa

...Appellant

Versus

Rattan and others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Aashish Yadav, Advocate  
for the appellant.

Mr.Subhash Goyal, Advocate  
for respondent – Insurer.

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HARINDER SINGH SIDHU, J.

On 1.12.2010, appellant Deepa – claimant/injured, aged 9 years and student of 3<sup>rd</sup> standard, was returning to her house from Government Primary School, Rampura along with her father. At around 2.00 pm, when they were on the *kacha* road, an Innova bearing No.HR-47AT-9261 being driven in a rash and negligent manner by Rattan – respondent, came from the side of Manesar and hit the claimant. As a result, she fell on the road and sustained multiple injuries including a head injury. She was shifted to the Hospital for treatment.

FIR No.284 dt. 4.12.2010 under Sections 279, 337 and 338 IPC was registered in Police Station Kherki Daula (Gurgaon) against Rattan – respondent for causing the accident.

On filing a claim petition under Section 166 of the Motor Vehicles

Act, 1988, the Motor Accident claims Tribunal, Gurgaon (for short 'the Tribunal'), awarded the following compensation to the claimant :

|                     |            |
|---------------------|------------|
| Medical Expenses    | 1,63,000/- |
| Pain and Sufferings | 30,000/-   |
| Transportation      | 9,400/-    |
| Nutritious diet     | 6,000/-    |
| Attendant Charges   | 6,000/-    |
| Loss of study       | 30,000/-   |
| TOTAL               | 2,44,400/- |

Learned counsel for the appellant – claimant, challenging the award, has contended that as per the Disability Certificate issued by the Medical Board of Pt. B.D.Sharma PGIMS, Rohtak, the claimant has suffered 25% permanent disability, but the Tribunal has not awarded any amount towards loss caused by this permanent disability. He, thus, argued that the compensation awarded by the Tribunal is on lower side.

I have heard learned counsel for the parties and gone through the records, with their assistance.

On 1.12.2010, after the accident, the claimant was admitted to Sunrise Hospital, Gurgaon, where she remained admitted till 24.12.2010. She had suffered injuries on her right hand, right elbow, left hand, right knee including fracture of right temporo-parietal calvarium. Dr.Manish Jha, Consultant Orthopaedic Surgeon of the said hospital, while appearing as PW1 proved the fact of her admission during the said period. He also disclosed that she had suffered serious head injuries and was treated conservatively for the same till her discharge from the Hospital. Besides,

other witnesses Laxmi Chand Accountant, L.K.Tiwari and Aryan Mudgil

Record Keepers, appeared as PW3, PW5 and PW7 respectively before the Tribunal and proved on record the bills and receipts of the payments made towards medical expenses.

Disability certificate No.PGIMS/MB/12/2502 dated 7.6.2012 issued by the Special Medical Board, PGIMS Rohtak was placed on record as Annexure A-1 before this Court, as per which the claimant child has suffered 25% permanent disability due to old c/o Head injury with RT parietal and mild hemiparesis left side. To verify the authenticity of the said document, a verification report qua the said certificate was called from the PGIMS, Rohtak, wherein, it has been reported that "Mild Hemiparesis, means weakness of one half of body.". It has also been certified that the disability pertains to the whole body and not to a part of the body.

Thus, the submission advanced by learned counsel for the claimant child that she needs to be awarded compensation for the permanent disability suffered by her carries weight. The impugned award is to be modified accordingly.

Keeping in view the age of the claimant-child, the nature of the injury and consequent permanent disability suffered by her, it would be appropriate if sum of Rs.1,00,000/-, each, under the heads of 'permanent disability' and 'loss of future enjoyment of life, including loss of marriage prospects' is awarded in addition to the amount already awarded by the Tribunal.

Accordingly, the appeal is allowed and the impugned Award is modified to the extent that the appellant/injured child is held entitled to compensation of Rs.2,00,000/- in addition to the amount of Rs.2,44,400/-

