

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 2524 of 2013(O&M)
Date of Decision: 06.07.2018

Sapna Devi

---Appellant

versus

Manoj Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.R.C.Gupta, Advocate
for the appellant

Mr. Vikas Chatrath, Advocate,
Mr. Kirapal Singh, Advocate and
for Mr. Abhilaksh Grover, Advocate
for respondent No. 2

Rekha Mittal, J.

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained in a motor vehicular accident that took place on 23.10.2011.

The Motor Accidents Claims Tribunal, Ambala (in short “the Tribunal”) has awarded compensation of Rs.1,08,000/-, detailed in para No. 35 of the award, extracted hereunder:-

Cost of medical treatment, hospitalization and medicines	Rs. 31,000/-
Transportation	Rs. 5000/-
Nourishing food/special diet	Rs. 5,000/-
Attendant	Rs. 5,000/-
Loss of earnings during the period of treatment	Rs. 12,000/-
Pain, suffering and trauma as a consequence of the injuries	Rs. 50,000/-

Counsel for the appellant would urge that Dr. Sant Ram Gupta PW2 was examined and he has deposed about nature of injuries sustained by the victim, taken note of by the Tribunal in para 24 of the award. The injured remained hospitalized in MM Medical College and Hospital, Mullana for a period of one month and at the time of occurrence, she was in the family way. She has suffered disability to the extent of 10%, reflected in the disability certificate sought to be produced by filing an application under Order 41 Rule 27 of the Code of Civil Procedure. The last submission made by counsel is that compensation awarded by the Tribunal under various heads is on lower side and needs enhancement. In addition, she is entitled to compensation for future medical treatment for the scar left on her upper limb on account of sustaining injuries.

Counsel representing respondent No. 2 has supported assessment of compensation by the Tribunal with the plea that there is no justification for enhancement of compensation. It is further argued that disability certificate sought to be produced on record by way of additional evidence has not been proved, in accordance with law.

Dr. Sant Lal Gupta has deposed that the injured suffered lacerated wound 15 cms x 7 cms on anterior aspect of left arm, muscles were cut and bones were exposed, Red abrasion over anterolateral aspect of left arm, red extensive abrasion on left scapular region and left shoulder and tenderness over left side of neck. Taking into consideration the nature of injuries sustained coupled with period of treatment as an indoor patient, interest of justice would be served if compensation qua special diet and attendant is enhanced to Rs. 15,000/- (additional amount of **Rs. 5000/-**).

As per the disability certificate, she has suffered united fracture

humerus with pain and stiffness, elbow has 10% disability, likely to improve. Disability certificate is dated 29.8.2012. There is no re-assessment for the past about six years. Under the circumstances, she is allowed **Rs. 10,000/-** qua disability.

The claimant has been allowed compensation of Rs. 12,000/- qua loss of services of the injured during period of treatment and recovery. In view of the above, claimant shall be entitled to a sum of Rs. 20,000/- (additional amount of **Rs. 8000/-**) under this head. There is no evidence that the injured requires further medical treatment, therefore, contention of counsel for the appellant for future medical expenses is untenable. The Tribunal has rightly allowed reimbursement on the basis of bills marked as exhibits. In view of the above, additional amount of **Rs. 23,000/-** shall be 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

06.07.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No