

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

FAO No. 2962 of 2013

DATE OF DECISION : 01.05.2018

Rajbala

....APPELLANT

Versus

Sunil Kumar and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sunny Namdev, Advocate, for
 Mr. Saurabh Dalal, Advocate,
 for the appellant.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3.

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AVNEESH JHINGAN, J.

Rajbala wife of late Virender is in appeal against the award dated 31.03.2012 passed by the Motor Accident Claims Tribunal, Rohtak (for short, 'the Act'). She suffered 100% permanent disability in an accident that took place on 31.01.2011. She along with Jagdish was standing near Gandhra turn, village Ismailla on National Highway No. 10, and was waiting for a vehicle. A Mahindra Max jeep bearing registration No. HR-67-4694 came from Rohtak side and hit the appellant. The jeep was being driven in a rash and negligent manner. The appellant sustained multiple grievous injuries. FIR was registered at Police Station Sampla.

2. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed. The Tribunal awarded a sum of ₹ 4,23,700/- along with interest at the rate of 6% per annum. The present appeal is for enhancement of compensation.

3. Learned counsel for the appellant argued that as per the certificate Ex.P40, the appellant suffered 100% permanent disability. She remained hospitalised from 01.02.2011 to 15.02.2011 in Chawla Nursing Home, Hisar and from 06.03.2011 to 18.05.2011 in PGIMS, Rohtak. His contention is that the compensation for permanent disability has been awarded without applying multiplier method and the amounts awarded under various heads are on lower side.

4. Learned counsel for respondent No.3 – insurer defended the award and resisted the enhancement.

5. A 40 years old house wife was crippled by the accident. She suffered 100% permanent disability on account of cervical spine injury with quadriplegia with bowel and bladder involvement. Her disability was proved by certificate Ex.P40 and deposition of Dr. T.S. Bagri (PW.6). The Tribunal awarded a lump sum amount of ₹ 3,50,000/- on account of permanent disability.

6. The aim of awarding compensation is that so far as possible a person suffering by a wrongful act of another person is placed in a position, in which he/she would have been had the harm not been done. Endeavour is that sufferer receives full compensation, no more but certainly no less. The

compensation can only be awarded for the harm which money can redress. There are certain losses which cannot be compensated by any amount of money. The services and dedication of a house wife towards her family cannot be assessed in monetary terms. For the anguish, pain and suffering and the mental trauma, by the appellant for rest of her life being bed ridden, no amount of money would be enough. The duty of court would be to arrive at just and equitable compensation.

7. One of the logical and reliable methods is to rely upon multiplier method to arrive at compensation to be awarded. The Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*, has provided a table for multiplier to be applied as per the age of the sufferer. Generally, the multiplier reflects the normal life expectancy of the victim. Since the multiplier to be applied has been tabulated by the Supreme Court keeping in view the age of the sufferer, and the appellant was 40 years at the time of the accident, a multiplier of 15 would be applied. Though the earning of the appellant was not proved, yet the fact remains that she was a house wife who works round the clock without any monetary motive. Her monthly earning is assessed as ₹ 5,000/-. The compensation for permanent disability is calculated as : $5000 \times 12 \times 15 = ₹ 9,00,000/-$.

8. The Supreme Court in *Raj Kumar Vs. Ajay Kumar and another, 2011 (1) SCC 343* has held that if victim of a motor vehicular accident suffers permanent disability, then every effort should always be

made to award adequate compensation not only for physical injury and treatment but also for loss of earning and her inability to lead normal life and enjoy amenities which she would have enjoyed but for disability caused due to the accident. In other words, both pecuniary and non-pecuniary damages are to be compensated. The period of hospitalisation of the appellant was almost for 87 days. She suffered a spinal injury which ensures that there would be requirement of dependent throughout her life. Transportation would have been required during the period of her treatment, for future treatment. Special diet as prescribed by the doctor would also be required. She has lost all the amenities of life and even the expectancy of life would be shortened because of the injury. The Tribunal has reimbursed only the actual medical expenses proved but has not considered that the treatment would be life long.

9. The amounts awarded by the Tribunal are enhanced as below :-

Heading	Amount awarded by the Tribunal	Amount now awarded by this Court
Disability	₹ 3,50,000/-	₹ 9,00,000/-
Medical expenses	₹ 33,700/-	₹ 75,000/-
Pain and suffering	₹ 20,000/-	₹ 75,000/-
Special diet, attendant and transportation	₹ 20,000/-	₹ 1,50,000/- i.e. ₹ 50,000/- each for special diet, attendant and transportation
Loss of amenities	Nil	₹ 1,00,000/-
Shortening of life expectancy	Nil	₹ 1,00,000/-
Total	₹ 4,23,700/-	₹ 14,00,000/-

10. The award dated 31.03.2012 passed by the Tribunal is modified to the extent that the amount of ₹ 4,23,700/- awarded by the Tribunal is enhanced to ₹ 14,00,000/-.
11. The appellant would be entitled to the enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount.
12. The appeal is partly allowed in the aforesaid terms.

May 01, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No