

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 2076 of 2015(O&M)

Date of Decision: August 16 , 2018.

Premvati @ Naimvati

..... APPELLANT (s)

Versus

Ravinder Parshad and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Hamid Hassan, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.2 – Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been preferred by the appellant for enhancement of compensation awarded to her vide award dated 24.04.2014 passed by the learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by her in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that a petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking

compensation on account of the injuries and disability suffered by her in a motor vehicle accident, which took place on 30.10.2012. It has been averred that the claimant had come to her father's house, who is living in a Jhuggi (a hut used as dwelling) near Lala Wala Peer on the left side of Tirlokpur Road, village Raipur Rani. When she was returning to her Jhuggi after taking water from a nearby handpump on 30.10.2012 at 7.00 p.m., a motorcycle bearing registration No.CH01-AJ-9224 being driven by respondent No.1-Ravinder Parshad in a rash and negligent manner came at a very high speed from backside and hit the claimant. The claimant was dragged by the offending vehicle to some distance. As a result thereof, she suffered multiple and grievous injuries. She was taken to Government Hospital, Raipur Rani and thereafter, referred to PGI, Chandigarh for treatment. The claimant remained admitted in the hospital from 30.10.2012 to 19.11.2012. FIR (Ex.P1) was registered against respondent No.1.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending motorcycle bearing registration No.CH01-AJ-9224 by respondent No.1-Ravinder Parshad. This finding of the learned Tribunal has attained finality.

The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 75% disability. Appellant's contribution towards the family in monetary terms was assessed as ₹3,000/- per month. Permanent functional disability of the claimant was assessed as 75%. Multiplier of 18 was applied. Thus, loss of earnings was assessed as ₹4,86,000/-. A sum of ₹5,000/- towards transportation and ₹15,000/- each on account of attendant charges,

special diet and pain & sufferings were awarded. A sum of ₹10,000/- was awarded towards loss of amenities. A total sum of ₹6,42,230/- was awarded by the learned Tribunal as compensation including actual medical expenses of ₹81,230/- as well as consultation charges of ₹15,000/- borne by the appellant. The present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellant argues that the appellant's income has been incorrectly assessed as ₹3,000/- per month whereas, minimum wages of even an unskilled labourer in the State of Haryana at the relevant time were ₹4967/- per month. It is contended that due to the injuries received by the claimant/appellant, she has been rendered 100% disabled. The claimant suffered visual, speech as well as hearing disability and she is unable to carry out her routine chores. She has two minor children to look after but now she is completely dependant on her husband. Learned counsel for the appellant further submits that in view of the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (16) SCC 680** 40% increase in income be afforded to the appellant and compensation be awarded accordingly. Meagre amount has been awarded on account of pain and suffering as well as loss of amenities. Learned counsel for the appellant has placed reliance on the judgment of the Hon'ble Supreme Court in **Jagdish v. Mohan, 2013 (2) RCR(Civil) 308**. It is thus prayed that compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3 – Insurance Company however submits that the compensation awarded by the learned Tribunal is reasonable and

as per the evidence on record. It is however not denied that the claimant suffered from 75% disability qua the whole body.

I have heard learned counsel for the parties and have gone through the file.

Liability of the Insurance Company in this case is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1 – Ravinder Parshad. The appellant was 25 years old at the time of the accident which took place on 30.10.2012. She had two minor children, who were aged three years and five months, respectively, at the time of the accident. PW5 Dr.K.K.Bansal, Medical Officer has clearly testified that the claimant was suffering from Post Traumatic left hemiparesis when she appeared for assessment of her disability on 20.11.2013. The claimant has visual, speech as well as hearing disability. Her disability was assessed as 75% in relation to her body. Disability suffered by the claimant on account of the injuries suffered by her in the abovesaid accident was stated to be permanent and not likely to improve with the passage of time. PW5 Dr. K.K.Bansal has proved the disability certificate as Ex.PW4/A.

It is clear that the claimant has been rendered completely dependant upon her husband. She is even unable to look after her minor children, carry out her daily household or her own routine chores. The learned Tribunal has wrongly assessed her income to be ₹3,000/- per month. Even if it is concluded that the claimant was not doing any labour work as claimed and is considered to a household wife, there is no justification for assessing her income to be less than ₹6,000/- per month. Income of the claimant is accordingly assessed as ₹6,000/-

per month.

It is considered appropriate to assess the compensation in terms of the guidelines laid down by the Hon'ble Supreme Court in Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765. Disability suffered by the claimant is proved to be 75% in relation to her body. She has suffered permanent visual, speech as well as hearing disability. Functional disability of the appellant is, therefore, clearly 100%. Therefore, loss of income is assessed as ₹6,000/- per month.

While affording an increment at the rate of 40% on account of loss of future income, the amount comes to $[(6000 + (6000 \times 40\%)] = ₹8,400/-$ per month i.e., ₹1,00,800/- per annum. Age of the appellant was 25 years as on the date of the accident, therefore, multiplier of 18 is to be applied. Loss of earnings is, thus, assessed as ₹18,14,400/- $[1,00,800 \times 18]$.

The appellant is held entitled to a sum of ₹50,000/- on account of loss of amenities instead of ₹10,000/-. Another sum of ₹50,000/- instead of ₹15,000/- on account of pain and sufferings is awarded as well. Actual medical expenses, consultation charges, transportation, attendant charges as well as amount on account of special diet as ordered by the learned Tribunal are maintained.

Appellant is, thus, entitled to compensation detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of earnings	₹18,14,400
2.	Pain and sufferings	₹50,000
3.	Loss of amenities	₹50,000
4.	Actual medical expenses including consultation charges	₹96,230

5.	Transportation charges	₹5,000
6.	Attendant charges	₹15,000
7.	Special diet	₹15,000
Grand Total		₹20,45,600/-

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

August 16 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No