

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2342 of 2015 (O&M)

Date of Decision: 02.05.2018

Sukhvir Kaur

.....Appellant

Versus

Jarnail Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Chander Shekhar Singh, Advocate
for the appellant.

Mr. Sanjeev Goyal, Advocate
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(oral)

The present appeal arises from award dated 12.02.2015 passed by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal).

Sukhvir Kaur, aged 24 years, suffered injuries in a motor vehicular accident that took place on 22.11.2013. She was waiting at bus stand of Kakrala on Samana road for going to Samana. A rashly and negligently driven truck/tanker bearing registration No.HR-38-L-0786 (for short 'the offending vehicle') struck her. She was taken to Civil Hospital, Samana. From there she was referred to Rajindra Hospital, Patiala. Thereafter from Rajindra Hospital, Patiala, she was referred to PGI Chandigarh but her family members took her to CMC Ludhiana.

In a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal held that accident occurred due to rash and negligent driving of the offending vehicle. 51% permanent disability qua left hand was duly proved. Disability certificate was exhibited as Ex.P31.

The appellant was National level baseball and softball Player. The Tribunal after considering the facts and circumstances of the case, awarded a sum of Rs.6,84,000/- alongwith interest at the rate of 9% per annum.

The present appeal has been filed for enhancement of compensation.

Learned counsel for the appellant argued that the appellant remained admitted in the hospital for 15 days. There was a degloving injury of skin of left hand from wrist with crushing of the soft tissue of the palmar and dorsal aspect. There was amputation of index and middle fingers from proximal phalanx mid shaft with degloved skin. Total amputation of ring and little fingers from mid shaft proximal phalanx level. Vasculariy distally sluggish and degloved thumb.

The contention raised is that inspite of she being a National level player of baseball and softball and having reservation, she could not appear for medical tests in the job applied for the post of Sub Inspector in Punjab Police. The grievance raised is that the amounts awarded for pain and suffering, loss of future amenities and loss of marriage prospects are on the lower side. It is argued that while awarding compensation, a sum of Rs.2,10,000/- on account of medical bills, attendant and transportation charges has also been included in the said amount.

Learned counsel for the insurer of the offending vehicle defended the award and resisted any enhancement.

The endeavour in the proceedings for compensation in case of permanent disability is to put the sufferer back to the position in so far as money can. There is no dispute raised on the percentage of the disability suffered and the period of hospitalization. Though it has not come on record that 51% permanent disability qua the left hand has effected the functional ability of the appellant to what extent. But the amount awarded for permanent disability has not been challenged.

Supreme Court in *Raj Kumar Versus Ajay Kumar* 2011 (1) SCC 343 has held that in case of injury not only pecuniary even the non-pecuniary damages have to be compensated. The medical bills worth Rs.1,58,286/- were produced before the Tribunal. It was taken note that the appellant would not have been able to preserve all the bills of the amount spent on her treatment. In such circumstance, medical expenses beyond the amount of bills produced will have to be considered.

Amputation of finger and restricted movement ensure that a young girl would not be able to lead a normal life. Her marriage prospects would be badly effected. Though the amount of compensation for permanent disability has been awarded by applying multiplier method, but while awarding compensation under the other heads, it has to be considered that a just and equitable compensation is awarded.

For the reasons mentioned above, the amounts awarded are enhanced as per table given below:

<i>Sr. No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>
1	Medical bills, attendant and transportation charges	Rs.2,10,000/-	Medical Bills Rs.2,00,000/- Attendant Rs.25,000/- Transportation Rs.25,000/-
2	Pecuniary loss for permanent disability	Rs.3,24,000/-	Rs.3,24,000/-
3	Pain and suffering Loss of future amenities, loss of marriage prospects and special diet	Not awarded Rs.1,50,000/-	Rs.1,00,000/- Loss of future amenities Rs.50,000/- Loss of marriage prospects Rs.1,00,000/- Special diet Rs.25,000/-
4	Total	Rs.6,84,000/-	Rs. 8,49,000/-

The award dated 12.02.2015 is modified to the extent that the amount awarded of Rs.6,84,000/- is enhanced to Rs. 8,49,000/-.

The claimant would be entitled to enhanced amount alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is accordingly disposed of in the aforesaid terms.

02.05.2018
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No