

(106) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2516 of 2015

Date of decision: 25.09.2018

Lakhwinder Kaur

... Appellant

Versus

Krishan Kumar and others

... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Surender Deswal, Advocate for the applicant/appellant.

Mr. Neeraj Khanna, Advocate for respondent
No.3/Insurance Company.

B.S. Walia, J. (Oral)

[1] Appeal has been filed seeking enhancement of compensation of ₹ 99,880/- (wrongly typed as ₹ 90,880/- in the award) awarded by the learned Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') along with interest @ 9% per annum from the date of filing of claim petition till actual realization on account of injuries sustained by the appellant in a motor vehicular accident.

[2] Brief facts of the case leading to the filing of the instant appeal are that the appellant sustained multiple and grievous injuries in a motor vehicular accident which took place on 01.03.2013. She suffered fracture of left ulna and fracture of ribs of right side, besides, fracture of

upper front teeth. The appellant was operated upon for fracture of left ulna and was provided with closed reduction and K-wire fixation, while for chest injuries, she was treated conservatively and was discharged from hospital on 06.03.2013. The learned Tribunal by taking into account her contribution to the family as housewife and assessing the same @ ₹ 3000/- per month, awarded her ₹9000/- on account of loss of income for a period of three months while ₹5000/- was awarded in lump towards attendant charges. A sum of ₹5000/- was awarded on account of special diet and ₹5000/- towards transportation charges respectively. Thereafter, by awarding ₹25,880/- on account of medical expenses incurred and ₹50,000/- on account of physical, mental pain and agony, total amount of compensation awarded was ₹99,880/-. However, while mentioning total amount of compensation, the Tribunal inadvertently mentioned the same as ₹90,880/- as against ₹99,880/-.

[3] Learned counsel for the appellant contended that in the case of death of a housewife, this Court in the case of an accident decided in the year 2014 had taken monthly contribution of the deceased housewife towards her family at ₹9000/-. Learned counsel contended that the notional monthly contribution of the deceased housewife in said case taken at ₹9000/- per month by the Tribunal was not interfered with by this Court and SLP against the same was also dismissed. Per contra, learned counsel for the respondents has reiterated the reasoning given in the award and contended that the same did not warrant interference.

[4] I have considered the submissions of learned counsel for the parties. *FAO No.5627 of 2014*, titled as '**Brahmanand and others** versus **Rajesh Kumar and others**' was a case where the accident and death of

the housewife took place on 15.04.2003. The case was decided on 07.12.2016 and the Tribunal had assessed the contribution of the deceased-wife @ ₹ 2000/- per month. However, the High Court after taking into account that even a domestic help round the clock may not be available at the cost of ₹ 6000/- per month, especially when a housewife was to perform multifarious duties, assessed the value of services of the deceased housewife @ ₹ 6000/- per month. Likewise a Co-ordinate Bench of this Court in *FAO No.218 of 2014, decided on 15.01.2014 in case titled as 'United India Insurance Company Limited versus Sube Singh and others'*, in which case the date of death of the housewife was 23.11.2012 upheld the monthly contribution of a housewife assessed at ₹ 9000/- per month by the Tribunal. In the instant case the date of accident is of 01.03.2013. Accordingly, in the light of the position as noted above, the contribution of the appellant towards her family is taken as ₹ 9,000/- per month as against ₹ 3000/- per month assessed by the learned Tribunal.

In view of the above, as against sum of ₹9000/- awarded for three months on account of monthly contribution of the housewife towards her family, the appellant is held entitled to award of a sum of ₹ 27,000/-.

[5] The appellant was awarded lump sum ₹ 5000/- towards attendant charges for three months. However, I am of the view that for the period in question, minimum of ₹ 3000/- per month is liable to be awarded to the appellant towards attendant charges.

Accordingly, the appellant is held entitled to award of ₹ 9000/- towards attendant charges for three months.

[6] The appellant was awarded lump sum ₹ 5000/- towards special diet for three months. However, in my view during the period in question a minimum of ₹ 3000/- per month should be awarded to the appellant towards special diet.

Accordingly, the appellant is held entitled to award of ₹ 9000/- towards special diet for three months.

[7] The appellant was awarded lump sum ₹ 5000/- on account of transportation charges for three months. However, in my view, for the period in question the same should be enhanced to ₹ 3000/- per month i.e. ₹ 9000/- for three months.

Accordingly, the appellant is held entitled to award of ₹ 9000/- towards transportation charges for three months.

[8] Reimbursement of medical expenses of ₹ 25,880/- and ₹ 50,000/- on account of pain and suffering do not warrant any interference.

[9] Accordingly, in the light of the position as noted above, compensation payable works out as under:-

Sr. No.	Heads	Amount assessed by the Tribunal (for three months)	Amount assessed by this Court (for three months)	Amount increased by this Court
1.	Loss of Income	₹ 9000/- (@ ₹ 3000/- per month)	₹ 27000/- (@ ₹ 9000/- per month)	₹ 18,000/-
2.	Medical Attendant	₹ 5000/- (lump sum)	₹ 9,000/- (@ ₹ 3000/- per month)	₹ 4,000/-
3.	Special Diet	₹ 5000/- (lump sum)	₹ 9,000/- (@ ₹ 3000/- per month)	₹ 4,000/-
4.	Transportation	₹ 5000/-	₹ 9,000/-	₹ 4,000/-

	Charges	(lump sum)	(@ ₹ 3000/- per month)	
5.	Medical Expenses	₹ 25,880/-	₹ 25,880/-	No Change
6.	Pain and Suffering	₹ 50,000/-	₹ 50,000/-	No Change
	Total	₹ 99880/-		₹ 30,000/- [i.e. ₹ 99880/- + ₹ 30,000/- = ₹ 1,29,880/-]

[10] In the circumstances, as against compensation of ₹99,880/-, the appellant is held entitled to award of ₹1,29,880 (i.e. ₹99,880/- + ₹30,000/-) along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[11] Accordingly, the appeal is allowed by modifying the award dated 11.11.2014 passed by the learned Tribunal to the extent as noted above.

(B.S. Walia)
Judge

25.09.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No