

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

CM No.12432-CII of 2014 in/and
FAO No.4320 of 2014
Date of Order: 16.10.2018.

Raj Wati

....Appellant

Versus

Suresh Kumar and others

...Respondents

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

Present: Mr. Diwan S. Adlakha, Advocate for the appellant.

Mr. R.K. Bashamboo, Advocate
for respondent No.3.

B.S.WALIA, J (ORAL)

CM No.12432-CII of 2014

For the reasons as are mentioned in the application, the same is allowed. Delay of 44 days in late filing of the appeal is condoned subject to all just exceptions.

FAO No.4320 of 2014

1. Prayer is for enhancement of compensation of ₹15,120/- awarded by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhari (hereinafter referred to as 'the Tribunal') on account of injuries sustained by the appellant in an accident which took place on 21.05.2010.

2. The learned Tribunal on the basis of evidence led before it came to the conclusion that the appellant was entitled to compensation of ₹15,120/- on account of injuries sustained by her in the accident.

3. Learned counsel for the appellant contended that the appellant sustained fracture of pelvis left on account of which permanent disability suffered by her was 3%. In addition thereto, the appellant was also awarded a sum of ₹5,000/- on account of pain and suffering, transportation, attendant charges as well as loss of earning etc. Learned counsel contended that the award of ₹5,000/- on account of pain and suffering was grossly inadequate and the same was liable to be enhanced to ₹50,000/-.

5. Per contra learned counsel for respondent No.3 contended that the compensation awarded was just and proper and did not warrant interference.

6. I have heard learned counsel for the parties and am of the view that since there is a mention in the disability certificate that the condition is likely to improve and lump sum of ₹6,000/- (i.e. ₹2,000/- for per every 1% disability), has already been awarded by the Tribunal, the same does not call for any interference. Compensation of ₹5,000/- on account of pain and suffering, is on the lower side and ought to have been awarded more. Admittedly, the appellant suffered fracture of pelvis left and would have remained immobile / on bed rest for at least six weeks. Accordingly, the appellant is held entitled to ₹10,000/- on account of pain and suffering. Since, the appellant would have to go for medical treatment for which transportation would have been used, I am of the view that a sum of ₹2,000/- would suffice towards transportation charges. The appellant would have required care and attention by an attendant for at least 1½ month. Accordingly, a sum of ₹3,000/- per month is deemed to be just and proper on account of expenses for attendant charges. Accordingly, the appellant is

held entitled to ₹4,500/- on account of attendant charges. The appellant would also have required special diet for a period of at least 1 ½ month. Accordingly, the appellant is held entitled to ₹3000/- per month as special diet charges for a period of 1½ month. Resultantly, the appellant is held entitled to ₹4500/- on account of special diet charges. The appellant would also not have been able to work for a period of approximately 1½ month. Accordingly, taking into account the monthly income @ Rs.3,000/- per month, the appellant is held entitled to ₹4500/- on account of loss of earning.

7. In the circumstances, the compensation payable to the appellant works out to ₹35,620/- (including 4120/- on purchase of medicines and hospitalization charges) as against ₹15,120/- awarded by the Tribunal, less payment if any already made. In view of the decision of Hon'ble the Supreme Court in Municipal Corporation of Delhi vs. Association of Victims of Uphaar Tragedy 2001 (14) SCC 481, rate of interest on the enhanced amount of compensation is ordered to be paid at the rate of 9% per annum with effect from the date of claim petition till date of realization.

8. Appeal is allowed by modifying the award to the extent noted above.

October 16, 2018

rajesh.k.khurana

**(B.S.WALIA)
JUDGE**

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