IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220 **FAO-4672-2014 (O&M)**
Date of Decision : 16.10.2018

Smt. Swapana Biswas **....Appellant**

vs.

Mohd. Sharif and another **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vivek Suri, Advocate
for the appellant.

Ms. Seerat Sharma, Advocate for
Mr. Nitin Grover, Advocate
for respondent No.2.

****

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 26.3.2014 passed by Motor Accident Claims Tribunal presided over by Additional District Judge, Ambala awarding compensation of Rs. 5,58,000/- alongwith interest at the rate of 7.5% per annum on account of injuries sustained by the appellant in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Counsel for the appellant states that there was a permanent disability of 100% in relation to her whole body and as per the judgment of this Court passed in the matter of ***Ram Kiran Goyal vs. Sub Divisional Mechanical 2008 (2) RCR (Civil) 103*** Rs.2,000/- has to be paid for every per cent of disability. Counsel for the respondent No.2 is not in a position

Anuradha
2018.10.29 16:34
I attest to the accuracy and
integrity of this document

to deny this. In the circumstances, Rs. 2,00,000/- is granted for permanent disability.

Counsel for the appellant has argued that the appellant is required an attendant for the rest of her life because of her disability. At the time of accident she was 41 years old. Considering this fact that the appellant was 41 years old at the time of accident and now she is 50 years old, I deem it appropriate to award a sum of Rs. 15 lakhs. This amount would be put in a fixed deposit and the interest thereon would be released quarterly and would be utilized for keeping an attendant for her. On her death this amount would reverted back to the insurance company.

Learned counsel for the appellant has further argued that the appellant is a housewife and Tribunal took her contribution as Rs. 3000/- only where as in a similar case in FAO No. 218 of 2014 titled as ***United India Insurance Co.Ltd. versus Sube Singh and others*** decided on 15.01.2014 where the accident took place in the year 2012 and this Court had taken the contribution of house wife at Rs. 9,000/- per month. He has further argued that on this contribution no deduction can be made. Counsel for the insurance company points out that if no deduction can be made on this contribution then no future prospect can awarded. I find merit in both the arguments. In the circumstances, the appeal is allowed to the extent that the income of the deceased is taken to be Rs.1,08,000/- per year with multiplier of 14.

Learned counsel states that the appellant is on catheter and require regular dressing. In this circumstance, I deem it appropriate to award a sum of Rs. 10 lakhs. This amount would be put in a fixed deposit

Anuradha
2018.10.29 16:34
I attest to the accuracy and
integrity of this document

and the interest thereon would be released quarterly to the appellant for future medical expenses. On her death this amount would be reverted back to the insurance company.

Counsel for the appellant further argued that nothing has been awarded by the Tribunal under the head of pain and suffering. Learned counsel for the insurance company is not in a position to deny this fact. Consequently, I award Rs. 1 lakh for pain and suffering.

Learned counsel has further argued that in "***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others"*** in ***Civil Appeal No. 9581 of 2018*** decided on 18.9.2018 the Supreme Court has awarded interest at the rate of 12% on the entire compensation. Counsel for the insurance company points out that in a subsequent judgment of the Supreme Court passed by learned Three Judges Bench in Civil Appeal No. 10588-89 of 2018 decided on 12.10.2018 titled as "***Sebastiani Lakea and others vs. National Insurance Company Ltd. and others"*** the Supreme Court had awarded compensation with interest at the rate of 9% per annum. Keeping in view both the judgments, I deem it appropriate to award interest on the entire amount at the rate of 10% per annum from the date of filing of the claim petition till the date of realization.

As regards the fixed deposit of Rs. 15 lakhs and 10 lakhs (mentioned above) it is made clear that if the same are not created within two months, the appellant would be entitled to interest on this amount also. Out of the enhanced amount an amount of Rs. 5 lakhs be given in cash to the appellant, the remaining be put in a fixed deposit.

Anuradha
2018.10.29 16:34
I attest to the accuracy and
integrity of this document

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

16.10.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No

Anuradha
2018.10.29 16:34
I attest to the accuracy and
integrity of this document