

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-328-2015 (O&M)
Date of Decision: 17.07.2018

Bhoti Devi @ Bhateri Devi

--Appellant

Versus

Tejpal & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Rao Ajinder Singh, Advocate for the appellant.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate for respondent no.3.

TEJINDER SINGH DHINDSA.J (Oral)

Appellant has filed the instant appeal seeking enhancement of compensation that has been awarded by the Motor Accident Claims Tribunal (herein after to be referred as the Tribunal), Rewari vide award dated 11.9.2014 for the injuries that were suffered in a motor vehicle accident on 18.1.2012.

Brief facts are that a claim petition under Section 166 of the Motor Vehicle Act, 1988 was filed by the appellant claiming compensation to the tune of Rs.5 lacs along with interest @ 24% per annum on account of injuries sustained in an accident that took place on 18.1.2012. It was stated that while the appellant was crossing a road, a motorcycle bearing registration no. HR-36-N-4239 and being driven in a rash and negligent manner, struck against her and on account of which she suffered grievous injuries. FIR No.40 dated 19.1.2012 under sections 279, 337 I.P.C was registered at Police Station, Dharuhera against Tejpal i.e. driver of the offending motorcycle. In the claim petition it was averred that the claimant was 34 years old and was a skilled worker in the capacity of a house maid and was earning Rs.7,000/- per month.

Upon the pleadings of the parties, the following issues were framed by the Tribunal:-

- “1) Whether on 18.1.2012 at about 5.30 pm in front of H-way Hospital, Dharuhera, Tehsil Dharuhera, District Rewari, any accident was caused by respondent no.1 driver of offending vehicle bearing no. HR-36-N-4239 in a rash and negligent manner as alleged?OPP*
- 2) If issue no.1 is proved, whether Bhoti Devi received injuries in the said accident as alleged?OPP*
- 3) If issues no.1 & 2 are proved, whether the petitioner is entitled to compensation? If so to what amount?OPR*
- 4) Whether petition is not maintainable?OPR*
- 5) Whether petitioners have suppressed the true facts from the court?OPR*
- 6) Whether driver of vehicle bearing no. HR-36-N-4239 was not holding effective driving license to drive the said vehicle at the time of accident?OPR*
- 7) Relief.”*

In so far as Issues no.1 and 2 are concerned, findings were returned in favour of the claimant and it was held that the accident took place on account of the rash and negligent driving of respondent no.1. In so far as the quantum of compensation is concerned, the Tribunal has awarded a sum of Rs.3,000/- towards special diet, Rs.80,829/- towards medical expenses and Rs.4,000/- towards pain and suffering. The total compensation awarded is Rs.87,829/- along with interest @ 7% per annum from the date of filing of the claim petition till actual realization.

I have heard counsel for the parties at length and have perused the records of the case.

In the considered view of this Court the compensation awarded to the claimant is on the lower side and needs to be reassessed.

In the case of *Madan Lal Papneja Vs. State of Haryana and others, 2012, Accidents Claims Journal, 199*, it was held by this Court that an injured is entitled to compensation on account of pecuniary and non-pecuniary heads. Pecuniary damages would encompass loss of income, transportation to hospital, attendant charges, diet and medical expenses etc. Non-pecuniary damages include pain and suffering and loss of amenities of life.

In the present case, even though, no evidence had come forth to prove that the appellant was earning Rs.7,000/- per month as claimed, yet, even by taking the appellant to be a house wife aged 34 years, it would be safe to assess her income to be Rs.6,000/- per month. Document at Ex.PW-5/A was adduced on record and which reflected that the appellant had suffered abdominal as also head injuries. Such document was duly proved. To the same effect was the testimony of Dr. B.K. Sharma, PW-5. It has also been proved in the shape of documentary evidence that the appellant remained hospitalized from 18.1.2012 to 29.1.2012.

It would be safe to presume that after discharge from the hospital, the appellant, even if, taken as a house wife would not have been in a position to resume her household chores immediately. Under such circumstances, I deem it appropriate to assess Rs.12,000/- as loss of income. Rs.5,000/- is awarded towards transportation charges. A similar amount of Rs.5,000/- is awarded towards attendant charges. The amount awarded by the Tribunal towards pain and suffering i.e. Rs.4,000/- is much on the lower side and is enhanced to Rs.25,000/-.

In view of the discussion above, the amount awarded to the claimant/appellant is reassessed as follows:-

Sr. No.	Head	Calculation
1.	Loss of income	12,000/-
2.	Transportation charges	5,000/-
3.	Attendant charges	5,000/-
4.	Special diet	3,000/- (as awarded by the Tribunal)
5.	Medical expenses	80,829/-
6.	Pecuniary damages (as awarded by the Tribunal)	Nil.
7.	Non-pecuniary damages i.e. pain and suffering towards injuries suffered by the claimant	25,000/-
	Total	1,30,829/-

The aforesaid enhanced compensation be released to the appellant along with interest @ 6% from the date of filing of the instant appeal till actual realization thereof.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

17.07.2018

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