

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3355 of 2015
Date of decision:- 21.03.2018

Smt.(Dr.) Raman Rani

...Appellant

Versus

Master Abhinav Singla and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Inderjeet Sharma, Advocate, for the appellant.

Mr.Radhe Shyam Sharma, Advocate, for respondent No.3.

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 20.11.2014, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') vide which compensation to the tune of 1,72,000/- was awarded to the claimants on account of injury suffered by her.

FACTS NOT IN DISPUTE

On 03.02.2011, at about 2:10 afternoon claimant was returning from clinic to catch bus/conveyance for return journey to home when respondent No.1 a young boy while driving scooter No.HR03-L-3957 in a rash and negligent manner hit her from behind near Mauli Jagran, U.T.Chandigarh. Resultantly, she fell down and on raising hue and cry people assembled and nabbed the boy along with scooter. Police was informed and she was taken to General Hospital for treatment of the injuries. An FIR No.46 dated 14.02.2011 for the offence under Section 279, 337 of IPC is registered in PS Manimajra.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the claimant was 53 years old at the time of accident and as per her affidavit Ex.PW1/A she proved her income as Rs.20000/- per month. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Loss of income	Rs.20000/- X 4.5 months= Rs.90,000/-
2.	Attendant charges	Rs.25,000/-
3.	Pain and suffering	Rs.25,000/-
4.	Special diet	Rs.15,000/-
5.	Loss of amenities	Rs.15,000/-
6	Costs	Rs.2,000'-
	Total	Rs.1,72,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the disability certificate. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

A perusal of the disability certificate Ex.P5 shows that it was case of malunited fracture of both bones of left leg with pain, limp, stiffness of left ankle with difficulty in squat and sit cross leg sitting and disability has been assessed 20% in relation to left lower limb which is not likely to improve. However, reassessment was suggested after a period of 3 months. The disability certificate has been duly proved by Doctor Umesh Modi, PW-2. In his cross-examination, he stated that disability is qua injured limb only and not qua whole body. As per deposition of PW-3 Dr.ritu Setia, Medical Officer, General Hospital, Sector-6 Panchkula, claimant was admitted on 03.02.2011 with history of road side accident with profuse swelling over left ankle and she was given treatment by Dr.Pankaj Aggarwal. The disability certificate shows that the claimant is permanent disabled qua lower limb to the extent of 20% as such, the disability qua the whole body is taken as 10%. The learned Tribunal has assessed loss of income correctly by taking her monthly income of Rs.20,000/- per month.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. In view of the disability certificate, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Loss of income by multiplier method	(Rs.20,000/- X 12 X 11) X 10% qua whole body = Rs.2,64,000/-
2.	Pain and suffering	Rs.50,000/-
3.	Special diet and attendant	Rs.20,000/-
4.	Loss of amenities	Rs.25,000/-
	Total	Rs.3,59,000/-
	Enhanced amount of compensation	Rs.3,59,000/- ----- Rs.1,72,000/- = Rs.1,87,000/-

Resultantly, the enhanced amount of compensation of Rs.1,87,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. And ors. in Civil Appeal No.448 of 2018**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

21.03.2018
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>