

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

FAO-5933-2013

Date of Decision:10.01.2018

Rinku Devi

.....Appellant

Versus

Surinder Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Gopal Sharma, Advocate,
for the appellant.

Mr. Gobind Dhanda, Advocate,
for respondent Nos.1 and 2.

Mr. Naveen Chopra, Advocate,
for respondent No.3.

HARI PAL VERMA, J.(Oral)

The appellant-claimant has filed the present appeal against the award dated 23.04.2013 seeking modification/enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Panchkula (for short “the Tribunal”).

Briefly stated, as per claim petition, on 17.01.2011 the appellant and her husband were going to the factory situated in Plot No.196, Industrial Area, Phase-II, Panchkula. When they reached in front of V-Text Company, Industrial Area, Phase-I, Panchkula, a truck bearing registration No.HP-12-A-9534 came from the side of Sector 14, Panchkula, being driven rashly and negligently by respondent No.1, which hit the claimant from the backside. As a result of which, the claimant suffered multiple and grievous

injuries as the truck had run over her legs.

On the basis of the evidence, the Tribunal assessed the income of the claimant at ₹4,750/- per month and considering her age as 31 years, applied multiplier of 16. In this manner, the Tribunal awarded a total compensation of ₹3,76,247/- along with interest @ 7.5% per annum. Aggrieved against the aforesaid award, the claimant has filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellant-claimant states that there is some mistake in the calculation as detailed in para 18 of the award. Though as per award, the amount of award has been shown as ₹3,76,247/- but the calculation of the amount under various Heads reveals that the total amount of compensation payable to the claimant Rinku Devi comes to ₹4,56,247/-.

Learned counsel for the appellant further states that at the time of accident, the claimant was working with Garg Electronics, Plot No.196, Industrial Area, Phase-II, Panchkula and was getting salary @ ₹4,750/- per month. Apart from the aforesaid fact, she was also doing the work of tailoring, embroidery and stitching etc. The compensation awarded by the Tribunal as detailed in para 18 requires modification. He has argued that the Medical Board has assessed the disability of the claimant as 30% in relation to her lower limbs but for the purpose of calculation for the assessment of compensation, functional disability of the claimant has been assessed as 20%. Similarly, after having met with a serious accident, her loss of future earning and loss of earnings for the period for which she remained in the hospital and the subsequent period, she certainly required recovery, special diet and miscellaneous expenses including transportation etc. require modification.

On the other hand, learned counsel for respondent No.3- Insurance Company has been fair enough in admitting the fact that there is an error in the calculation of the compensation so awarded as detailed in para 18 of the award. However, he has argued that taking into consideration the nature of injuries suffered by the claimant, sufficient compensation has been awarded and the claimant does not deserve any more compensation in this regard.

I have heard learned counsel for the parties and find that once the Medical Board has assessed the disability of the claimant as 30% in relation to her lower limbs and the claimant being a labourer is certainly required to travel with this much of disability, therefore, the loss of future earning due to functional disability which has been assessed as 20% for the purpose of compensation is required to be considered as 30%.

So far as loss of earnings for the period during which she remained admitted in the hospital i.e. 101 days, the Tribunal has awarded salary for a period of 3½ months. This Court finds that even the assessment under the head of loss of earnings is required to be enhanced considering the extent of her disability, and that too after having been operated on three different occasions including the plastic surgery. No injured can start functioning straightway and therefore, instead of loss of earnings of 3½ months, the same is enhanced to 6 months. Special diet is also increased to another ₹10,000/- and miscellaneous expenses including transportation etc. are further modified from ₹10,000/- to ₹20,000/-.

The claimant shall now be entitled to the following amount of compensation:-

1. Amount spent on treatment and medicines ₹1,37,222/-

2.	Loss of future earning (₹4,750/- x 30/100) x 12 x16	₹2,73,600/-
3.	Pain and suffering	₹80,000/-
4.	Loss of earnings (₹4,750/- x 6)	₹28,500/-
5.	Special diet	₹40,000/-
6.	Misc. expenses including transportation etc.	₹20,000/-
Total:		₹5, 79,322/-

The enhanced amount of compensation shall fetch the same rate of interest as awarded by the Tribunal.

With the aforesaid modification in the award, the present appeal stands disposed of.

January 10, 2018
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(HARI PAL VERMA)
JUDGE

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