

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

FAO-5587-2014
Date of decision: 23.03.2018

Veena **...Appellant**

V/s.

Manju Sood and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. HPS Ishar, Advocate with
Ms. Seema Khanna, Advocate for the appellant.

Mr. D.R. Bansal, Advocate for the respondents.

AVNEESH JHINGAN, J. (Oral)

The present appeal arises from award dated 06.05.2014 passed by Motor Accident Claims Tribunal, Panchkula (for short 'the MACT').

An accident took place on 22.06.2012 when the appellant was returning from her duty back to her house, near market of Industrial Area, Phase-II, Panchkula, by a rash and negligent driven scooter no. CH01-AK-7525. She sustained multiple injuries including fracture of right leg. She was treated in General Hospital, Sector-6, Panchkula.

A claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') was filed. The Tribunal awarded a sum of ₹1,06,120/- alongwith interest @ 7% per annum.

The present appeal has been filed for enhancement of compensation. Learned counsel for the appellant argued that the appellant suffered 10% permanent disability whereas the Tribunal while calculating

the compensation for permanent disability has taken the same as 5%. He contended that the appellant was hospitalized for 10 days. She was operated upon and a steel rod was inserted in her right leg. His grievance is that no amount has been awarded for loss of income during the period of treatment and the amount awarded under the various heads are also on lower side.

Learned counsel for the insurer defended the award and argued that already excess amount of ₹69,120/- has been awarded for permanent disability and no further enhancement is called for.

The appellant was 35 years of age at the time of accident. It was proved that she was working with M/s. Drish Shoes Ltd., Panchkula. It had also come on record that she did not join her duty after the accident. 10% permanent disability qua the lower limb was proved by disability certificate. There is no dispute that she remained hospitalized for 10 days, she was operated upon and suffered a fracture.

The contention of learned counsel for the appellant that Tribunal erred in applying 5% for calculating the compensation for permanent disability instead of 10%, cannot be accepted. There is nothing on record to prove that what was the effect of the accident on functional ability of the appellant. It has only been mentioned in the statement of PW-3 that she did not join the job as she was unable to walk properly due to the said accident. It nowhere proves that she was not in a position to continue with her job. Be that as it may, it cannot be denied that she was a house-maker also. Her contribution to the family cannot be underestimated. It cannot be denied that her hospitalization, restricted

movements and the fact she remained bed-ridden because of surgery or fracture for a sufficient period deserve to be noted while awarding the compensation. Since there was a fracture and a surgery of leg, it can be safely considered that at least for three months, she was not able to work.

Keeping in view the facts and circumstances of the case, the amount awarded by Tribunal is enhanced by ₹80,000/-. It may be mentioned here that while enhancing the amount interest to be awarded under Section 171 of Act has been considered.

If the insurance company does not pay the enhanced amount till 28.05.2018, appellant would be entitled to interest @ 9% per annum from the date of filing of the claim petition till realisation.

23rd March, 2018

Divyanshi

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**