

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

FAO No.6321 of 2013 (O&M)

Date of decision : 19.02.2018

Ritu Rani

...Appellant

Versus

Shri Chirag and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Monika Arora, Advocate for the appellant.

Ms. Swati Batra, Advocate for the Insurance Company.

ANIL KSHETARPAL, J. (ORAL)

CM No.25867-CII of 2013

For the reasons stated in the application, which is duly supported by an affidavit, delay of 194 days in filing the appeal is condoned.

Application is allowed.

Main Case

The appellant-injured is in the present appeal for enhancement of the compensation.

Learned Motor Accident Claims Tribunal has awarded a sum of ₹78,000/-.

Learned counsel for the appellant has submitted that the functional disability which was assessed by the Board at 4% has been reduced to 1% without any discussion or reasoning by the Tribunal. She has

further submitted that the appellant remained admitted in the hospital for almost 15 days. She submits that the compensation of ₹15,000/- on account of pain and suffering is on the lower side because the appellant was examined by the Board of Doctors after 2 ½ years from the date of the accident and the Doctors found that there is functional disability to the extent of 4%.

She has further submitted that the loss of income assessed by the Tribunal is also on the lower side as she has been granted only two months income towards loss under that head. She submits that the appellant who was pregnant at the time of the accident and because of the accident she has to undergo premature delivery.

On the other hand, learned counsel for the respondent-Insurance Company has vehemently opposed the appeal and has submitted that the disability is temporary and, therefore, the Court has rightly taken the permanent disability at 1%.

This Court has considered the submissions of the learned counsel for the parties and with their able assistance, gone through the award passed by the Motor Accident Claims Tribunal.

In the considered opinion of this Court, the Court without there being any evidence available on the file and without any reason reduced the disability to 1%. The appellant was examined by the Board of Doctors after a period of 2 ½ years from the date of accident. If after a period of 2 ½ years, the appellant was assessed to be disabled at 4%, without there being any evidence to the contrary, the Court ought to have accepted the medical opinion. Thus, the compensation assessed by the Tribunal for disability shall be multiplied by 4, which comes to ₹8064/- x 4 = ₹32,256/-.

No doubt, the appellant has remained admitted in the hospital for almost 15 days. Still further thereafter also, the appellant must be undergoing through pain and suffering due to the accident. She suffered multiple fractures in her left leg. After a period of 2 ½ years, her disability has been assessed at 4%.

Keeping in view the aforesaid facts, the compensation on account of pain and suffering is enhanced to ₹50,000/-.

Loss of income assessed by the Court for a period of two months is also on the lower side which is increased to six months.

In view thereof, the compensation is enhanced to ₹59,192/-.

The enhanced amount of compensation i.e. ₹59,192/- shall carry interest @ 7.5% p.a. from the date of accident till the date of payment.

In view of the above, the present appeal is disposed of.

19.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No