

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

214

FAO-6352-2013 (O&M)

Date of Decision:17.01.2018

Gurinder Pal Kaur

.....Appellant

Versus

Gurinder Kaur and others

.....Respondents

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

Present: Mr. H.S. Saggu, Advocate, for the appellant.

None for respondent No.1.

**Mr. Vishal Sharma, Advocate,
for respondent No.2.**

**Mr. P.S. Bhinder, Advocate,
for respondent No.3.**

**Mr. Gopal Mittal, Advocate,
for respondent No.4.**

HARI PAL VERMA, J.(Oral)

CM-25912-CII-2013

Prayer in this application is for condonation of 921 days' delay in filing the appeal.

Reply on behalf of the respondent-insurance company has been filed.

Having heard counsel for the parties, this Court finds that the appellant had also filed another FAO-2823-2011 seeking enhancement of compensation for the death of her husband, and the MACT has passed a common award for the death of husband of appellant/claimant and for compensation for injuries suffered by the appellant in the same accident.

Accordingly, the appellant has been able to establish sufficient cause so as to condone the delay of 921 days.

For the reasons stated in the application, same is allowed and delay of 921 days' in filing the appeal is condoned.

FAO-6352-2013 (O&M)

The claimant has filed the present appeal seeking modification/enhancement of the compensation in the award dated 07.12.2010 passed by learned Motor Accident Claims Tribunal, Sangrur (for short "the MACT") in a claim-petition filed under Section 166 of the Motor Vehicles Act on account of injuries suffered by the claimant in the accident.

Learned counsel for the appellant has argued that the accident took place on 21.01.2009 and in the said accident, complainant suffered multiple injuries i.e. injury on left forearm, left hand and other parts of the body. On the basis of x-ray report, fractures of both bones of left forearm and second meta carpel left hand were found. On account of these fractures, internal fixation with DCP plates was done for forearm bones and meta carpel was fixed with K-wire. The claimant was discharged from the hospital on 31.01.2009. Accordingly, she remained admitted in the hospital for about 11 days. The claimant even got herself examined by Dr.Sanjiv Aggarwal, Eye-Specialist, Civil Hospital, Sangrur, who found that there was swelling in left side of the forehead, pain and tenderness on the left forearm. Similarly, pain and tenderness on the left side of the chest was also noticed. However, on the basis of the evidence so adduced by the claimant, the learned MACT awarded an amount of ₹73,281/- which included ₹48,821.50 paise on account of medicines and ₹25,000/- towards pain and sufferings.

Learned counsel for the appellant has argued that the award

passed by the learned MACT needs to be re-visited/modified to the extent that no compensation has been awarded towards diet and attendant charges as appellant remained admitted in hospital for 11 days, and was required to keep a attendant.

No one is present on behalf of respondent No.1, owner of the offending vehicle. However, Mr. G.S. Bhinder, Advocate, has put in appearance on behalf of respondent No.3-driver. Mr. Gopal Mittal, Advocate, appearing on behalf of respondent No.4-Insurance Company has argued that the insurance company has been given recovery rights, but taking into consideration the nature of injuries so suffered by the claimant in the accident, sufficient compensation has already been awarded by the Tribunal. He has admitted that the claimant remained in the hospital, but has pointed out that the claimant was admitted in the hospital on 27.01.2009 and was discharged on 31.01.2009 and therefore, the compensation awarded by the Tribunal is commensurate to the injuries suffered by the appellant in the accident and duration of stay in the hospital.

Learned counsel for respondent No.2 states that claimant has not raised any claim against the respondent No.2-Pala Ram, as he has merely been impleaded for the reason that respondent No.3-Hardeep Singh, driver has used his name for the purposes of his address.

I have heard the learned counsel for the parties.

There is no doubt that the learned MACT has awarded the compensation to the claimant towards medical expenses for a sum of ₹48,821.50 paise and ₹25,000/- towards pain and sufferings, but this Court finds that on account of injuries so suffered by the claimant, it is physically impossible for a person to resume her day to day functions immediately

after 11 days and therefore, the claimant being a housewife must have engaged some attendant so as to perform her daily chores. Therefore, this Court finds that some compensation towards attendant charges is required to be given to the claimant.

Similarly, taking into consideration the injuries so suffered by the appellant, particularly when orthopedic intervention was required in the instant case, as there were two fractures on the left forearm and left hand, the claimant deserves to be awarded compensation towards a high protein diet as well.

Accordingly, an amount of ₹10,000/- is awarded towards attendant charges and another sum of ₹10,000/- is awarded towards the diet of the injured/claimant.

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

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

January 17, 2018
seema

(HARI PAL VERMA)
JUDGE

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