

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

**FAO No. 6389 of 2013 (O&M)**

Date of decision : October 05, 2018

Amandeep Kaur

.....Appellant

Versus

Rajinder Singh and others

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Vijay Lath, Advocate  
for the appellant.

Ms. Dhivya, Advocate  
for respondent No. 1.

Mr. P.S. Dhaliwal, Advocate  
for respondents No. 2 and 3.

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**LISA GILL, J.**

This appeal has been preferred by the appellant – Amandeep Kaur for enhancement of compensation awarded to her vide award dated 16.8.2013 passed by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by her in the motor vehicle accident, which took place on 01.05.2011.

Brief facts necessary for adjudication of the case are that the appellant was involved in a motor vehicle accident on 01.05.2011. She alongwith her mother, sister and other relatives were coming back from Anandpur Sahib to their village Chalola on a Tata Sumo Car No. CH-04-C-3974. The said Tata Sumo was driven by Gian singh with proper care and caution at a normal speed on the left side of the road. When they reached near village Ajouli, bus bearing registration No. CH-01-G-8887 driven by

respondent No. 1 in a rash, negligent manner and at a high speed came from the back side and struck the Tata Sumo. All the occupants of Tata Sumo suffered multiple grievous injuries. The claimant also suffered multiple grievous injuries on her spinal cord and other parts of the body. She was taken to BBMB Hospital, Nangal, from where she was referred to PGI, Chandigarh. She remained unconscious for long time and was unable to move. The claimant had to engage a maid for her daily chores of life. Claim petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by her.

Claim petition was resisted by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether claimant Amandeep Kaur sustained injuries in a road accident on 01.05.2011 at about 3.30 p.m. near village Ajauli and whether said accident caused due to rash and negligent driving of Bus No. CH-01-G-8887 by respondent No. 1 ? OPP
2. If issue No. 1 is proved, whether claimant is entitled to get compensation? If so, to what amount and from whom? OPP.
3. Whether claim petition is bad on account of non-joinder and mis-joinder of necessary parties? If so, its effect? OPR
4. Relief.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of bus bearing registration No. CH-01-G-8887 by respondent No. 1. This finding of the learned Tribunal has attained finality. The learned Tribunal concluded that the appellant sustained injuries in this accident leading to 100% disability. Appellant was aged 22 years at the time of the accident. The learned Tribunal awarded a total compensation of

₹5,50,000/- as under:-

|                                   |               |
|-----------------------------------|---------------|
| Disability (100%)                 | : ₹4,00,000/- |
| Marriage prospects                | : ₹75,000/-   |
| Educational and professional life | : ₹25,000/-   |
| Pain and suffering                | : ₹30,000/-   |
| Assistance                        | : ₹15,000/-   |
| Transportation                    | : ₹5,000/-    |

Present appeal has been filed seeking enhancement of the compensation awarded.

Learned counsel for the appellant argues that the appellant was a student of M.A. (Economics) at the time of the accident. The appellant has suffered 100% disability and now is totally dependant, even for routine chores. The learned Tribunal, it is submitted, has erred in awarding a meagre amount of compensation. It is further submitted that compensation awarded on account of loss of amenities, pain and suffering, special diet, transportation etc. is meagre. It is thus prayed that compensation awarded to the appellant be enhanced. Medical expenses are not being claimed as it is fairly stated that the father of the appellant was a government employee.

Learned counsel for the respondent - insurance company while refuting the arguments raised submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed and the impugned award dated 16.08.2013 be upheld.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

There is no dispute regarding the appellant having suffered injuries as mentioned in the motor vehicle accident caused by the rash and negligent driving of the offending bus by respondent No. 1 on 01.05.2011.

The claimant – appellant has successfully proved that she

suffered permanent disability of 100% on account of grievous injuries to her spinal cord. PW7 Dr. Kishan R. Bhagwant, Senior Resident, Department of Orthopaedics, Chandigarh deposed that the claimant on 01.05.2011 had sustained fracture of D-12 Vertebrae with paraplegia with bowel and bladder involvement. She was operated upon with posterior decompression and pedicle screw fixation on 04.05.2011. The appellant was discharged on 16.05.2011. She was, however, not able to feel passing of urine or faeces. Copy of discharge slip was proved as Ex. P39. PW6 Davinder Kumar Sharma, Medical Officer, Regional Hospital, Una deposed that he alongwith other constituted the Board of Doctors and assessed the disability of the claimant to the extent of 70% in relation to bilateral lower limbs. The claimant was asked to come for review after six months. PW6 proved disability certificate (Ex.PW6/A). Dr. Navtej Pal Singh (PW8) proved the disability certificate (Ex.P45) and specifically stated that the claimant suffered permanent disability of 100%. The claimant was confirmed to be a case of two years old fracture of D12 with implant insitu with paraplegia. PW8 has specifically stated that even with treatment, it will not be possible for the claimant to recover with time. Disability cannot be reduced with the passage of time. It is not in dispute that the claimant was 22 years old at the time of the accident and a student of M.A. (Economics).

In my considered opinion, it can be reasonably presumed that being the student of M.A. (Economics), the claimant would have been able to earn at least ₹7,000/- per month. Therefore, it is just and reasonable to assess the notional income of the appellant, in the present case, to be ₹7,000/- per annum. Compensation to the appellant is required to be re-worked in terms of the guidelines laid down by the Hon'ble Supreme Court

in **Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765**. Disability suffered by the claimant is proved to be 100% in relation to her body and the disability is permanent. Functional disability of the appellant is, therefore, clearly 100%. Therefore, loss of income is assessed as ₹7,000/- per month.

While affording an increment at the rate of 40% on account of loss of future income, the amount comes to  $[(7,000 + (7,000 \times 40\%)] = ₹9,800/-$  per month. Age of the appellant was 22 years as on the date of the accident, therefore, multiplier of 18 is to be applied. Loss of earnings is, thus, assessed as ₹21,16,800/-  $[9800 \times 18 \times 12]$ . The appellant is held entitled to a sum of ₹50,000/- on account of pain & suffering (instead of ₹30,000/-), ₹1,00,000/- on account of marriage prospects (instead of ₹75,000/-), ₹10,000/- on account of transportation (instead of ₹5,000/-), 75,000/- on attendant charges instead of ₹15,000/-. ₹1,00,000/- is awarded towards loss of amenities, ₹15,000/- on account of special diet.

Appellant is, thus, entitled to compensation detailed as under:-

|                            |                     |
|----------------------------|---------------------|
| Loss of earning            | ₹21,16,800/-        |
| Loss of amenities          | ₹1,00,000/-         |
| Loss of marriage prospects | ₹1,00,000/-         |
| Pain and suffering         | ₹50,000/-           |
| Transportation             | ₹10,000/-           |
| Special diet               | ₹15,000/-           |
| Attendant charges          | ₹75,000/-           |
| <b>Total</b>               | <b>₹24,66,800/-</b> |

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date

of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

October 05, 2018  
rts

(Lisa Gill)  
Judge

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No