

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5736 of 2015(O&M)
Date of Decision: 20.2.2018

Pooja

---Appellant

versus

Virender Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Arjun Atri, Advocate
for the appellant**

**Mr. Sanjeev Goyal, Advocate,
for respondent No. 2**

Rekha Mittal, J.

CM Nos. 17994-95-CII of 2015

Prayer in these applications is for condoning delay of 677 and 320 days in re-filing and filing the appeal.

In view of averments made in the applications coupled with the factum that provisions of the Motor Vehicles Act for grant of compensation are meant to enhance social justice and save the victim family from the financial loss caused due to accident, the application is allowed, delay of 677 and 320 days in re-filing and filing the appeal stands condoned subject however, to the condition that in case the compensation is enhanced, the applicant-appellant shall not be entitled to interest for the period of delay.

Disposed of accordingly.

Main case

Pooja, the minor claimant is in appeal seeking enhancement of compensation on account of injuries sustained by her in a motor vehicular accident that took place on 12.6.2006.

The Tribunal has assessed compensation of Rs. 60,000/-, detailed hereunder:-

Pain and suffering	Rs. 13,000/-
Disability to the extent of 10%	Rs. 25,000/-
Special diet and transportation	Rs. 10,000/-
Medical expenses	Rs. 12,000/-

Counsel for the insurance company has submitted that adequate compensation has been awarded by the Tribunal and there is no scope for enhancement.

The present is a case in which a minor aged about 15 years sustained injuries resulting in disability of 10%, noticed by the Tribunal in para 24 of the award. Hon'ble the Supreme Court in **Master Malikarjun vs. Divisional Manager, The National Insurance Company Limited and another 2013(4) RCR (Civil) 295** has laid down as a matter of principle the compensation to be allowed in injury cases where the victim happens to be a minor. In para 12 of the judgment, it has been held that permanent disability upto 10%, compensation for pain and suffering already undergone and to be suffered in future, mental and physical shock, hardship, inconvenience and discomforts etc. and loss of amenities in life on account of permanent disability would be Rs. 1,00,000/-. In addition, court has allowed compensation for medical and incidental expenses during the period of hospitalization, future medical expenses, discomforts,

inconvenience and loss of earnings to the parents during the period of hospitalization.

When the facts and circumstances of the present case are examined in the light of enunciation laid down in **Master Malikarjun's case (supra)**, claimant shall be entitled to Rs. 1,00,000/- for pain and suffering and loss of amenities of life etc. on account of permanent disability. An amount of Rs. 12,000/- awarded by the Tribunal for medical expenses is affirmed. The injured\victim remained hospitalized for a period of 11 days. Accordingly, an amount of Rs. 5000/- is allowed for discomforts, inconvenience and loss of earning to attendant during the period of hospitalization. The total compensation is Rs. 1,17,000/- and the additional amount is Rs. 57,000/-, payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 320 and 677 days in filing and refiling the appeal.

The appeal stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

20.2.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No