

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

FAO-8359-2014 (O&M)
Date of decision: 28.03.2018

Preeti ... Appellant

versus

Ram Naresh & ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parduman Yadav, Advocate for
Mr. V.P.Singh, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. Punit Jain, Advocate for
Mr. M.B.Jain, Advocate
for respondent No.3.

Hari Pal Verma, J.(Oral)

CM-22676-CII-2014

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 255 days in filing the present appeal.

For the reasons stated in the application, same is allowed and the delay of 255 days in filing the instant appeal is condoned.

CM-22677-CII-2014

Prayer in this application filed under Section 151 CPC is for condonation of delay of 831 days in re-filing the present appeal.

For the reasons mentioned in the application, same is allowed and delay of 831 days in re-filing the appeal is condoned.

FAO-8359-2014

The claimant-injured Preeti has filed the present appeal seeking enhancement of compensation over and above the amount awarded by the Motor Accident Claims Tribunal, Bhiwani (in short 'the Tribunal') vide award dated 31.03.2011.

The appellant had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of injuries suffered by her in a motor vehiclular accident, which took place on 26.09.2007. On the unfortunate day, the claimant along with her cousin Vinod was standing at bus stand of village Sanwar. They boarded a bus bearing No.NL-02B/1611 from the front gate so as to go to Bhiwani. The bus was being driven by respondent No.1 – Ram Naresh in a rash and negligent manner and at a very high speed. Though the claimant and the co-passengers had asked the driver to drive the bus slowly and at normal speed, but he kept on ignoring this advice. However, when the bus had crossed the speed breaker near street Jogio Wali, Sanwar, the claimant fell down on the road from the front gate of the bus and the front tyre of the bus struck against her hip. Due to this impact, claimant received multiple grievous injuries on her person. Her cousin brother, who was travelling with her also alighted from the bus to help her. Interestingly, after causing the accident, the driver of the bus fled away towards village Hindol, District Bhiwani. The cousin brother and other family members of the claimant shifted her to PGIMS, Rohtak for treatment. She remained admitted in PGIMS, Rohtak from 26.09.2007 to 28.11.2007. Thereafter, she was again admitted from 05.03.2008 to 08.03.2008. A considerable amount was spent on her treatment.

The claimant examined herself as PW-1, Dr. Manoj Aggarwal as PW-2, Dr. Pardeep Kajal as PW-3. Dr. Pardeep Kajal while appearing as a witness before the Tribunal had admitted that claimant was admitted on 26.09.2007 in the PGIMS, Rohtak with history of a roadside accident and was diagnosed of having degloving injury left thigh and pelvis with fracture of the pelvis with extensive perineal and rectal injury. She was operated upon for these injuries and skin grafting was also done. As per the evidence so led by the claimant, the claimant was admitted in the hospitals i.e. PGIMS, Rohtak and Sir Ganga Ram Hospital, New Delhi at different times. So far as PGIMS, Rohtak is concerned, she remained admitted from 26.09.2007 to 28.11.2007 and 05.03.2008 to 08.03.2008. In Sir Ganga Ram Hospital, New Delhi the claimant remained admitted from 12.08.2008 to 23.08.2008, 28.10.2008 to 02.11.2008, 06.10.2010 to 15.10.2010, 07.12.2010 to 08.12.2010, and 20.12.2010 to 25.12.2010. During her treatment, the claimant had spent an actual amount of Rs.6,51,871/- on account of medicines and other hospital charges alone. The Tribunal had awarded a consolidated amount of Rs.1,50,000/- towards several operations, skin grafting, pain and suffering, hospitalization, special diet and transportation etc. Thus, total amount of Rs.8,01,871/- was awarded to the claimant.

Not satisfied with the above compensation, the claimant has filed the present appeal for enhancement of compensation.

Learned counsel for the appellant has argued that the claimant-injured was 19 year old girl at the time of accident. She remained under treatment for more than 2½ years and for this period, she visited hospitals a number of times and considering the nature of injuries suffered by her,

which led to skin grafting, she had to remain admitted as indoor patient in the hospital for a considerable time. She is a resident of District Bhiwani, Haryana and had to travel for treatment to a far away hospitals from Bhiwani, for which she had to hire taxis. The nature of injury was such that a number of persons/family members were required to assist her for her movement throughout to different hospitals. Once it is proved on record that even qua medicines, the claimant had spent Rs.6,51,871/-, it is sufficient to take judicial note of the fact that injuries suffered by the claimant were serious enough in nature. The claimant has to remain confined to bed and for this purpose, she is entitled for compensation towards attendant also. The amount spent by the claimant is much more than what has been granted by the Tribunal.

On the other hand, learned counsel for the respondent-Insurance Company has argued that no doubt the claimant was a 19 year old girl at the time of accident, but the insurance company has paid the total actual amount spent by her on her treatment. The Tribunal has already awarded sufficient amount of compensation towards special diet, pain and suffering, hospitalization and transportation etc. and therefore, there is no further scope for enhancement.

I have heard learned counsel for the parties.

There is no dispute that the claimant suffered serious injuries in the accident for which skin grafting was conducted. She remained admitted in PGIMS, Rohtak from 26.09.2007 to 28.11.2007 and 05.03.2008 to 08.03.2008. At the same time, she was taken to Sir Ganga Ram Hospital, New Delhi for further specialized treatment. Therefore, this Court cannot ignore the fact that to cover the long distance i.e. from Bhiwani to Rohtak

and Bhiwani to New Delhi a considerable amount must have been spent by the claimant on transportation alone. The Tribunal has awarded Rs.1,50,000/- towards several operations, skin grafting, pain and suffering, hospitalization, special diet and transportation etc. besides Rs.6,51,871/- for medicines and hospital charges. This Court finds that injuries were quite serious in nature and the claimant remained admitted in hospitals for a considerable period. The claimant being a young girl of 19 year of age must be rendering enough help in the day-to-day functioning of the house, therefore, component of loss of income cannot be ignored lightly. Therefore, this Court deems fit that the amount of Rs.1,50,000/- awarded by the Tribunal needs to be enhanced to Rs.3,00,000/- towards special diet, transportation, attendant and pain and suffering and loss of earning. Accordingly, the amount of Rs.1,50,000/- awarded by the Tribunal is enhanced to Rs.3,00,000/- towards special diet, transportation, attendant and pain and suffering and loss of earning.

Since the appeal has been filed after a delay of 255 days in filing the appeal and 831 days in re-filing the appeal, the appellant shall not be entitled to the interest for the period during which the present appeal remained barred by limitation.

With this modification, the appeal is disposed of.

28.03.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No