

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 219

FAO-9918-2014 (O&M)

Date of decision : 11.07.2018

Rajinder Kaur

..... Appellant

VERSUS

Jatinder Singh Bhatia and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashwani Arora, Advocate, for the appellant.

Mr. Abhimanyu Kalsy, Advocate, for
Mr. Ankur Gupta, Advocate,
for respondent No. 2 (Insurance Company).

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DEEPAK SIBAL, J. (ORAL)

Through the present appeal the appellant/claimant seeks enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (for short, the Tribunal).

At the time of hearing of the appeal, learned counsel for the appellant has raised only one issue. He submitted that as per the disability certificate produced and proved before the Tribunal, as a result of the accident the claimant had become permanently disabled to the extent of 25%. Such disability had been proved not only by production of the certificate given by a Board of Doctors of GH, Sector 16, Chandigarh but also through the statement of Dr. Kapish Gupta. It is further submitted that the Tribunal erred in rejecting the afore-referred evidence only on the ground that there was no injury found on the arms and legs of the claimant. It is further submitted that since at the time of the accident the claimant was

48 years of age and was a housewife, the compensation ought to have been

calculated and awarded by the Tribunal after assessing her monthly income to be ₹5,000/- per month as also after applying the multiplier of 13.

Learned counsel for respondent No. 2 (Insurance Company) counters the submissions made by learned counsel for the appellant/claimant by relying on Ex. P3 which is an MRI and CT Scan report, dated 14.07.2011, issued by Dr. Tejinder Kaur in which no fracture on any of the vertebra is found.

After having heard learned counsel for the parties and perusing the record this Court is of the view that the contentions raised by learned counsel for the appellant merit acceptance.

To assess the claimant's disability, if any, on 24.04.2014, on the asking of the Tribunal, the claimant was medically examined by a Board of Doctors of Government Multi-specialty Hospital, Sector 16, Chandigarh. The examination by the Board revealed that as a result of the accident the claimant had become permanently disabled to the extent of 25%. A certificate in that regard was produced by the appellant before the Tribunal as Ex. P1. The same was also proved through the examination of one of its authors-Dr.Kapish Gupta. Dr. Gupta while appearing before the Tribunal categorically stated that the claimant had incurred permanent disability of 25% and that she would have difficulties in her day to day activities due to restricted neck movement. He further went on to state that she would require the services of an attendant during post operative period for at least six months. Dr. Gupta was subjected to lengthy cross-examination but he stood his ground.

That being so, this Court is of the view that the Tribunal erred

in rejecting the claim made by the appellant that her compensation be assessed after taking permanent disability to be 25% only on the ground that there was no injury found on the appellant's arms and legs.

The appellant is a housewife and therefore her monthly income @ ₹5,000/- is found to be reasonable. On the applicability of multiplier of 13 in the case of the appellant/claimant who is 48 years of age, learned counsel for the parties have no dispute.

In view of the above, the award of the Tribunal is modified to the extent that in addition to the compensation already granted to the appellant/claimant she is also held entitled to ₹1,95,000/- which has been assessed after considering her permanent disability @ 25%; monthly income of ₹5,000/- and applying a multiplier of 13.

The above amount shall be paid to the appellant/claimant alongwith interest @ 6% from the date of filing of the claim petition till its realization.

11.07.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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