

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1733 -1992 (O&M)

Date of decision: 23.05.2019

Giano Devi

.....Appellant

versus

Rajinder Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Kewal Singh, Advocate for the appellant
Mr.Mahender Singh Chahal, Advocate for respondent no.1

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Service of respondent nos.2 and 3 was dispensed with vide order dated 30.4.2018 passed by this Court.

This is an appeal for enhancement of compensation filed by the appellant-claimant Giano Devi. Vide award dated 3.8.1992 passed by Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal'), she was granted compensation to the tune of Rs.16,000/- with 12% per annum interest from the date of filing of claim petition till realization.

Heard.

As per case of the claimant, when she was alighting from Tata four wheeler, she was hit by a tempo bearing Registration Number HYR-4017 being driven by respondent no.1 Rajinder Singh. As a result of the accident, right leg of the claimant-appellant was fractured. She had to

undergo operation for leg twice.

The Tribunal held the respondent no.1 to be liable for the accident and all the respondents were held jointly and severally liable to pay the compensation. Respondent no.3 is the registered owner, whereas respondent no.2 is stated to have purchased the tempo on the basis of the affidavit. As per the latest law laid down by the Apex Court in Naveen Kumar vs. Vijay Kumar and others 2018 (2) RCR (Civil) 74, only the registered owner is liable to pay the compensation and not the person who is holding the affidavit or agreement. Therefore, respondent no.2 is exonerated from the liability.

Now, coming to the compensation part. The claimant was operated upon twice on 2.3.1991 and 9.3.1991 and external fixtures were applied. Right leg is weight bearing part of the body and normally, it takes about six months to heal the same. Considering that the claimant was an ordinary labour or in the alternative, she was rendering service to the family, the income of the claimant-appellant in the year 1991 is to be taken as Rs.1500/- per month. She is entitled to the compensation for the last six months, which comes to $\text{Rs.1500} \times 6 = \text{Rs.9000/-}$. Rs.1000/- on account of transportation has already been allowed by the Tribunal. So far as medical bills are concerned, claimant-appellant had to undergo operations and purchased medicines. Claimant has placed on file medical bills by way of additional evidence, which are after the decision of the case.

Considering the same and also considering that the claimant has to undergo pain and suffering for the said period of six months, a sum of Rs.15,000/- for medical bills and pain and suffering will meet ends of justice. Total amount of compensation comes to Rs.25,000/-. The said

amount shall be payable by respondent no.1 Rajinder Singh and registered owner Baljeet Singh-respondent no. 3 jointly and severally. In this way, the compensation stands enhanced by Rs.9000/-. The enhanced compensation shall be paid with interest @ 7.25% per annum from the date of filing of claim petition till realization.

Appeal is accordingly allowed.

23.05.2019

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No