

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

FAO No.1336 of 2002 (O&M)

Date of Decision.18.11.2019

Parsi Devi

...Appellant

Vs

Gurbachan Singh and another

...Respondents

Present: Mr. Tribhuvan Dahiya, Advocate
for the appellant.

Appeal qua respondent No.1 dismissed (18.12.2018).

None for respondent No.2.

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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JAISHREE THAKUR J. (ORAL)

This appeal is pending in this Court since the year 2002. By order dated 18.12.2018, appeal against Gurbachan Singh, driver of the offending scooter stood dismissed, as it was revealed that he had died. However, service upon his wife, respondent No.2, owner of the offending vehicle was complete. Notice of the appeal had been returned with the report that she had deposited the amount as awarded and she is sick and cannot move outside the house.

The appeal has been preferred against the award of the Motor Accident Claims Tribunal, Karnal dated 08.12.2001 seeking enhancement of compensation.

In brief, the facts are that an accident took place on 12.08.2000 when Parsi Devi was hit by a scooter bearing registration No.HR-05-C-9424, which was being driven by Gurbachan Singh, respondent No.1. Due

to impact of the accident, claimant fell down and received grievous injuries on vital parts of her body. A criminal case bearing FIR No.240 dated 12.08.2000 under Sections 279/337 IPC was registered at Police Station, Butana against respondent No.1. The injured was taken to the Civil Hospital, Nilokheri where she remained admitted for a period of three months. On account of injuries suffered, claim petition was filed alleging that the claimant had suffered 65% permanent disability on account of accident and she was not able to do any work thereafter.

The claim petition was contested and the Tribunal allowed the claim based upon statement given by PW3 Ranjit Singh, eye witness, who supported the case as set up. The Tribunal on assessment of injuries awarded a sum of ₹3000/- towards pain and suffering and ₹2000/- towards special diet. Apart from allowing an amount of ₹65,000/- towards her disability caused, the Tribunal awarded ₹10,000/- towards medical expenses incurred on her treatment. A sum of Rs.80,000/- in total was thus awarded to the lady.

Learned counsel appearing on behalf of the appellant would contend that the amount of compensation as assessed by the Tribunal is wholly inadequate, as nothing has been given towards transportation and attendant charges, while arguing that the compensation awarded for permanent disability suffered to the extent of 65% and other charges is not assessed correctly.

Since no one has put in appearance on behalf of respondent No.2, therefore, with the aid of the pleadings and assistance rendered by counsel for the appellant, this Court proposes to dispose of the appeal, which is pending in this Court since 2002.

In judgment rendered in **Raj Kumar Vs. Ajay Kumar and another (2011) 1 SCC 343**, it has been held that the Courts ought to have allowed the compensation to an injured claimant, which has been admitted in hospital by taking into account the expenses incurred towards medicines/hospital charges/attendant charges/special diet amongst other heads. In the instant case, the injured was 65 years old and suffered permanent disability of 65% as has been proved on the record by statement of the attendant doctor. The compensation qua the disability has to be assessed as per the judgment rendered in **Piara Singh Vs. Satpal Kumar and others 2006(4) RCR (Civil) 546**. The compensation as awarded for pain and suffering and permanent disability is also wholly inadequate, thus, compensation needs to be re-calculated, which is tabulated as under:-

INJURY CASES			
Age			
Period of Hospitalization			
Occupation			
	Heads of claim	Tribunal	High Court
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Loss of income		
2	Medical expenses		
(i)	Medicines	10000	10000
(ii)	Hospital Charges		
(iii)	Attendant Charges		5000
(iv)	Special Diet	2000	3000
(v)	Transport		1000
(vi)	Future medical expenses		
3	Pain & Suffering-per fracture/per surgery	3000	6000
4	Disability 65%	65000	130000
5	Loss of earning capacity		
	income		
	Multiplier		
	Future loss of income		

INJURY CASES			
6.	Loss of amenities		
7	Reduction in life expectancy		
8	Loss of prospect of marriage		
9	Loss due to disfigurement		
	Total	80000	155000

In all, the compensation payable shall be ₹1,55,000/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of claim petition till realization. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal is allowed.

(JAISHREE THAKUR)
JUDGE

November 18, 2019
Pankaj*

Whether speaking/reasoned Yes
Whether reportable No