

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

FAO No.1403 of 2004

Date of Decision : 21.02.2019

Jasbir Kaur

....Appellant

V/S

Mrs. Krishna Devi and others

....Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Ms. Ekta Thakur, Advocate for the appellants.
Mr. Neeraj Khanna, Advocate for respondent-Insurance Company.
None for the other respondents.

B.S. WALIA, J.

[1] Appeal has been filed seeking enhancement of compensation of ₹50,000/- awarded by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') on account of 8% disability and other heads.

[2] Learned counsel for the appellant contends that the appeal is liable to be allowed, award modified and compensation payable enhanced by awarding appropriate amount on account of attendant charges, special diet and transportation charges in addition to the compensation already awarded.

[3] Learned counsel contends that the appellant suffered fracture shaft femur (L) closed with partial ankylosis hip with 8% disability in relation to whole body and further that the appellant had to go to the PGI in auto-rickshaw, consequentially spent money on transportation besides remained admitted in the hospital for about one month where rod was inserted in her leg.

[4] The learned Tribunal by taking into account that despite claim of having remained admitted in hospital for one month and having spent ₹20,000/- on treatment the appellant had not produced any evidence in respect thereto, but, in

view of medical certificate, reflecting 8% disability qua appellants whole body, assessed lump sum compensation of ₹50,000/- under all heads.

[5] Paper book and record of the FAO was destroyed in a fire. The paper book has been re-constructed from salvaged record.

[6] I have considered the submissions of learned counsel for the appellant, as well as the respondent-Insurance Company in the light of the legal position.

[7] Learned counsel for the appellant has failed to produce any record to show the medical treatment or expenses incurred by the appellant on the same as also of her having remained admitted in hospital for about a month. In the light of the position noted above, on account of 8% disability in relation to whole body, the appellant is entitled to ₹16,000/- i.e. ₹2,000/- per percent of disability in view of the decision of a co-ordinate Bench of this Court in 'Ashok Kumar versus Kamaljit Singh and others', 2018(3) RCR (Civil) 645.

[8] The appellant sustained fracture for which she would have visited the hospital two to three times besides would have remained on bed rest for six weeks. The accident is of the year 2000. Accordingly, the appellant is held entitled to ₹500/- on account of transportation charges, ₹1500/- on account of attendant charges and ₹1500/- on account of special diet for a period of 1 ½ month. Although, no evidence has been led with regard to the medical expenses incurred but it can be presumed that the appellant would have spent approximately ₹10,000/- on account of medical expenses. The appellant is also entitled to a sum of ₹10,000/- on account of pain & suffering besides ₹10,000/- on account of loss of amenities of life, total of which works out to ₹50,000/-.

[9] Although, in the appeal, enhancement of compensation has been sought only on the ground that no compensation was awarded on account of attendant charges, special diet and transportation charges, but in the light of the

position as noted above and it having been found that the appellant is entitled to award of a maximum of ₹50,000/- even by awarding compensation on account of different heads in addition to the three heads on which enhancement has been sought, no case is made out warranting interference with the award of the learned Tribunal, Chandigarh granting lump sum compensation of ₹50,000/-.

[10] Accordingly, finding no merit in the appeal. The same is ***dismissed***.

(B.S. WALIA)
JUDGE

February 21, 2019
'Rajneesh'

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