

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

FAO No.4640 of 2004 (O&M)

Date of Decision : 04.02.2019

Satpal Kaur.

....Appellant

Versus

Jarnail Singh & others.

...Respondents

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

Present: Mr. Navjeet Singh, Advocate for the appellant.
None for respondent Nos.1 and 2.
Mr. Sandeep Suri, Advocate for respondent No.3-Insurance
Company.

B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed seeking enhancement of compensation of ₹34,589/- rounded off to ₹35,000/- awarded by the learned Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal) on account of injuries sustained by the appellant in a motor vehicular accident on 07.04.2001.

2. Brief facts of the case leading to the filing of the appeal are that the appellant sustained fracture of both forearms for which open reduction and plating was done as proved by certificate Ex.P1 issued by Dr. Dharam Pal and certificate Exs.P-2 to P-6 pertaining to medicines prescribed by PW-3 Dr. Sanjay Pal while certificate Ex.P-9 and Ex.P-8 were issued by Dr. Dharam Pal regarding expenses incurred on medicines. The appellant also sustained multiple fractures of the mandible as evident from the testimony of Dr. Ajay Sharma PW-5, Dental Surgeon, who deposed that the appellant suffered multiple fractures of mandible and that he had done her inter-maxillary wiring

on 21.04.2001 and according to him, her treatment continued from 21.04.2001 to 05.06.2001 when the wire was removed.

3. The learned Tribunal by taking into account that the appellant was admitted in the hospital on 07.04.2001 and discharged on 10.04.2001, on the basis of testimony of Dr. Sanjay Pal as well as Dr. Dharam Pal, PWs, recorded that it had been proved that the appellant had remained under their treatment and on the basis of bills Ex.P-1 to Ex.P-8, awarded a sum of ₹24,589/- on account of expenses incurred by the appellant on her treatment. Thereafter, by taking into account that the appellant had remained under treatment of Dr. Ajay Sharma, Dental Surgeon from 21.04.2001 to 05.06.2001, awarded compensation of ₹5,000/- on account of pain and suffering, ₹5,000/- on account of misc. expenses i.e. transportation, nutritional diet and attendant charges, total ₹34,589/- rounded off ₹35,000/-.

4. Learned counsel for the appellant contended that the compensation awarded on account of pain and suffering as well as misc. expenses was inadequate, besides, compensation under misc. heads had to be awarded separately on account of transportation, nutritional diet and attendant charges.

5. Learned counsel for the respondent fairly did not oppose the claim for enhancement but contended that since the accident pertained to the year 2001, therefore, reasonable enhancement of compensation be made.

6. I have considered the submissions of learned counsel for the parties.

7. Admittedly, not only both the forearms of the appellant were fractured in an accident but she remained admitted in hospital from 07.04.2001 and was discharged on 10.04.2001. On account of multiple fractures of the mandible, the appellant remained under the treatment of Dr. Ajay Sharma, PW-5, Dental Surgeon, during the period 21.04.2001 to 05.06.2001. PW-5 deposed that

due to fracture of her teeth the appellant would require further cosmetic treatment.

8. Taking into account the nature of injuries as well the duration of treatment, I am of the view that in the circumstances, compensation of ₹5,000/- awarded on account of pain and suffering is on the lower side. Accordingly, as against compensation of ₹5,000/-, a sum of ₹15,000/- is awarded on account of pain and suffering. ₹5,000/- was awarded on account of misc. expenses i.e. transportation, special diet and attendant charges. Admittedly, the appellant remained under treatment for a period of 7 weeks during which time she remained hospitalized for close to 5 days, besides had to make numerous visits to the Dental Surgeon on account of multiple fractures of the mandible during the period 21.4.2001 to 5.6.2001. In the circumstances, I am of the view that sum of ₹5,000/- awarded on account of misc. expenses needs to be enhanced. Accordingly, a sum of ₹2500/- is awarded on account of transportation charges, ₹2500/- on account of special diet and ₹2500/- on account of attendant charges, total ₹7500/- as against sum of ₹5,000/- awarded by the learned Tribunal.

9. Learned counsel for the appellant further referred to the cross-examination of PW-5 Dr. Ajay Sharma, Dentist, who had stated that he had orally told the appellant that she would require further treatment for which she would have to spend ₹10,000/- but that he had not given his aforesaid opinion in writing.

10. Learned counsel by referring to paragraph No.12 of the award contends that despite the appellant having got treatment during the period 21.04.2001 to 05.06.2001 on which date the wiring which had been done on account of multiple fractures of the mandible was removed, the appellant had to undergo

further treatment. Learned counsel contends that no amount was awarded on account of future medical expenses.

11. Although no details of the expenses incurred have been placed on record yet I am of the considered view that some amount would have been spent on future medical expenses. Accordingly, I deem it appropriate to award a sum of ₹5,000/- on account of future medical expenses w.e.f. 06.06.2001.

12. Thus, as against compensation of ₹35,000/- awarded by the learned Tribunal, the appellant is held entitled to compensation of ₹52,089/- rounded off to ₹52,000/- along with interest @ 7.5 % per annum with effect from the date of claim petition till date of payment of the enhanced amount.

13. Accordingly, appeal is allowed. Award dated 22.05.2004 passed by the learned MACT, Ludhiana is modified to the extent as noted above.

February 04, 2019
ps

(B.S. WALIA)
JUDGE

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