

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

1. FAO-1661-2007

New India Assurance Company Limited ... Appellant

Vs.

Neelam Chand and others ... Respondents

2. FAO-1310-2007

Neelam Chand ... Appellant

Vs.

Haryana Roadways Chandigarh and others ... Respondents

3. FAO-1309-2007

Manorma ... Appellant

Vs.

Haryana Roadways Chandigarh and others ... Respondents

Date of Decision:29.10.2019

CORAM : HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Ms. Vandana Malhotra, Advocate
for the appellant in FAO-1661-2007.

Mr. Ramneek Vasudeva, Advocate
for the appellant (s) in FAOs-1310 and 1309-2007.

Mr. Neeraj Khanna, Advocate
for the respondent-National Insurance Company.

Mr. Naveen Sharma, Advocate
for the respondents, namely, Rakesh Kumar and Sohan Singh.

NIRMALJIT KAUR, J. (Oral)

All the aforementioned appeals shall stand decided by this common order as they arise out of the same award dated 20.11.2006.

FAO-1661-2007 has been filed by the appellant-Insurance Company with which the bus was insured against the award dated 20.11.2006 on the ground that although they have been made liable to pay

only 50% of the compensation but the same too should be paid by the owner/driver of the bus in question as well as respondent No.3-National Insurance Company Limited-the insurer of the bus as the FIR was registered against the driver of the bus.

The argument that the FIR was registered against the driver of the bus in itself is not sufficient to absolve the appellant-company of its liability in view of the negligence of the driver of the vehicle which has been proved after taking into consideration the evidence produced on record. Accordingly, the aforesaid argument deserves to be rejected.

However, there is merit in the second argument that since Rs.65,000/-incurred towards medical bills stand reimbursed by the department, the same cannot be claimed from the appellant-company as well.

The respondent-claimant admitted that she has received reimbursement towards the medical bills from the department. In view of her statement, she cannot claim the money twice over towards the said medical bills.

Learned counsel for the respondent-claimant/Neelam Chand does not dispute the same.

In view of the above, this appeal is partly allowed. The award dated 20.11.2006 passed by the Motor Accident Claims Tribunal, Ropar, is modified by reducing the award by Rs.65,000/- awarded towards medical bills.

FAO-1310-2007 is filed for enhancement of compensation granted vide the award dated 20.11.2006.

While praying for enhancement of compensation, learned

counsel for the appellant submitted that although disability was 50% but only an amount of Rs.25,000/- has been awarded towards the physical disability. It is further submitted that the claimant was also entitled to the future loss of income as also under the head of transportation, special diet, loss of amenity etc.

It is not disputed by the learned counsel for the respondents that as per the judgment rendered by this Court in the case of **Ram Kiran Goyal** v. **Sub Divisional Engineer, Mechanical and others**; 2008 (2) R.C.R. (Civil) 103, compensation should be awarded at the rate of Rs.2000/- for every 1% disability.

Accordingly, the appellant-claimant is entitled to Rs.1,00,000/- towards permanent disability in respect of shortening of leg. Rs.25,000/- has already been awarded. Rs.75,000/- more has to be awarded.

With respect to the loss of amenity, transportation, special diet, the appellant-claimant is entitled to Rs.50,000/- as fair and just, over and above already granted.

Accordingly, FAO-1310-2007 is allowed to the said extent. The enhanced amount of Rs.60,000/- (Rs.1,25,000/- - Rs.65,000/-) be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till its realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

FAO-1309-2007 has been filed for enhancement of compensation granted to the claimant-appellant vide the award dated 20.11.2006.

While praying for enhancement of compensation, learned counsel for the appellant-Manorma submitted that no amount has been awarded towards permanent disability which was 30%. It is further submitted that she being a house wife, a multiplier should have been applied taking into consideration the disability towards the whole body. Learned counsel for the appellant has relied upon the judgment of this Court rendered in the case of **Palo Devi v. Karnail Singh and others**; (FAO-5110-2015; decided on 03.09.2019) to contend that housewife is entitled to compensation by applying the multiplier.

However, the judgment rendered in the case of Palo Devi (supra) to assess the compensation by applying the multiplier does not help as in the said case, there was amputation of the leg which meant that the housewife would not be able to do her daily work and duties towards her family and carry out other house hold chores as efficiently as earlier.

Admittedly in the present case, the disability is 30% and that too only shortening of leg. Therefore, this Court does not deem it proper to apply the multiplier.

However, it is not disputed that as per the judgment rendered by this Court in the case of **Ram Kiran Goyal v. Sub Divisional Engineer, Mechanical and others**; 2008 (2) R.C.R. (Civil) 103, compensation should be awarded at the rate of Rs.2000/- for every 1% disability. Hence, the appellant-claimant is held entitled to Rs.60,000/- towards permanent disability in respect of shortening of leg whereas only an amount of Rs.10,000/- has been awarded towards the physical disability. It is further submitted that only Rs.50,000/- has been awarded towards transportation, special diet, loss of amenity etc., the appellant-claimant should be entitled to

further enhancement of compensation by way of lump-sum of Rs.50,000/-.

After hearing learned counsel for the appellants, it is deemed it proper to enhance the amount of Rs.50,000/- in addition to the amount already awarded towards the loss of amenity, transportation, special diet.

Accordingly, FAO-1309-2007 is allowed to the said extent. The enhanced amount of Rs.50,000/- (towards loss of amenity, transportation, special diet) + Rs.50,000/- (towards disability) i.e. a total Rs.1,00,000/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till its realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

All the above appeals are disposed off and the award is, accordingly, modified as above.

29.10.2019
rajeev

(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No