

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

FAO-685-2005 (O&M)
Date of decision: 14.03.2019

Rupinder Kaur

...Appellant

Versus

Deepak Gandhi

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Sachin Luthra, Legal Aid Counsel
for the appellant.

None for the respondent.

H.S. MADAAN, J. (Oral)

On account of suffering injuries, in a motor vehicular accident, statedly caused due to rash and negligent driving of truck No.HR-S-2291 by respondent-Deepak Gandhi, appellant/claimant Rupinder Kaur had preferred a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation. Notice of that claim petition was given to respondent Deepak Gandhi-driver/owner of the truck in question, who was duly served but did not appear to offer a contest, as such, was proceeded against ex parte.

During ex parte evidence of claimant, she got her statement recorded as PW-1, besides examining, Pritam Singh as PW-2 and producing various documents in evidence.

Motor Accidents Claims Tribunal, Kurukshetra, vide award dated 05.11.2004, accepted the claim petition and granted compensation of Rs.45,000/- with interest @ 9% per annum.

Appellant/claimant feeling dissatisfied with the amount of compensation awarded to her and as such has approached this Court by way of filing an appeal against the award passed by the tribunal.

From the record, main part of which got burnt, it appears that notice of the appeal was given to respondent who refused to accept service and did not turn up to offer a contest.

I have heard learned counsel for the appellant besides going through the record.

A perusal of the impugned award goes to show that the tribunal considering statement of claimant/injured Rupinder Kaur appearing as PW-1, Pritam Singh as PW-2 and copy of report under Section 173 Cr.P.C. Ex.P27, copy of site plan Ex.P26, copy of FIR Ex.P28, came to the conclusion that the accident which had taken place on 01.02.2003, at about 8 AM in the area of Village New Masana, on account of rash and negligent driving of the offending truck bearing registration No. HR-S-2291 by owner/driver Deepak Gandhi, as such, appellant/claimant was entitled to get compensation.

While calculating the compensation, the tribunal has awarded a sum of Rs.27,460/- on account of medical treatment, observing that disability suffered by the claimant was not permanent in nature and was with respect to limitation of movement in respect of left

limb at 5%. However, a consolidated sum of Rs.45,000/- was awarded. In my view, the tribunal fell in error in awarding the compensation in such a manner without awarding compensation under different heads separately and then adding that amount.

It comes out from the evidence adduced by the claimant that the claimant/injured had remained admitted in Apna Hospital for 22/23 days. Dr. Vikas Goel had deposed about hospitalization of claimant/injured with diagnosis of fracture pelvis and blunt trauma abdomen, stating that he had received a sum of Rs.10,450/-, vide bill Ex.P23. He had proved another bill Ex.P24 for Rs.2750/-. Bill for Rs.1500 and Rs.200/- for medical treatment had also been proved in evidence. It is a matter of common knowledge that generally people do not keep record of each and every medicine purchased and a few bills do get misplaced. Under the circumstances, the amount said to have been spent upon treatment of claimant to the tune of Rs.35,000/- could not be said to be exaggerated and should have been allowed by the tribunal. Accordingly, the claimant is awarded a sum of Rs.35,000/- on account of expenses for medical treatment.

Towards transportation charges, a sum of Rs.10,000/- is awarded to her, keeping in view the period of her hospitalization and the fact that she had to go to doctor/hospital several times for follow up treatment also.

A person suffering from such type of injuries does require

special diet for early healing of injuries. An amount of Rs.10,000/- is awarded to her on that account.

After suffering injuries, during the period of her hospitalization and thereafter even, the claimant must have required the help of an attendant in moving about. For that a sum of Rs.10,000/- is awarded to her.

Though, it is difficult to quantify the pain and suffering undergone by the claimant on account of receiving injuries in the mishap nevertheless, a sum of Rs.25,000/- is given to her under that head.

The claimant being a young girl, statedly 19 years old at the time of accident, her marital prospects must have been affected due to injuries suffered in the accident. An amount of Rs.25,000/- is awarded to her under that head.

Considering the fact that she has 5% disability qua limitation of movement in respect of left limb, an amount of Rs.10,000/- is awarded to her. She might not have been able to perform her daily functions, which being in the form of extending help in household work etc. Another, sum of Rs.10,000/- is awarded to her.

Considering the fact that after the accident, she might not be able to walk, run and perform her normal functions as she used to do earlier, a sum of Rs.25,000/- is awarded to her under the head loss of amenities. Thus, a total compensation comes out to Rs.1,60,000/-

The tribunal has awarded a sum of Rs.45,000/- to the claimant. In that way, an additional compensation of Rs.1,15,000/- (Rs.1,60,000 – 45,000) is granted to the claimant, payable by the respondent from the date of filing of appeal till actual realization with interest @ 7.5% p.a besides with costs of the appeal.

Disposed of.

14.03.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No