

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

**FAO No.3745 of 2008 (O&M)
Date of decision: 03.07.2019**

Smt. Sunita Devi

....Appellant

Versus

Sh. Amarjit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellant.

Mr. V.M. Gupta, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 19.03.2008, on account of injuries received by her in a motor vehicular accident which took place on 23.12.2004.

Brief facts of the case are that on 23.12.2004, at about 11.30 P.M., claimant-appellant (Sunita Devi) along with her husband Partap Singh was coming from Lalru to Zirakpur on a scooter. When they crossed Dhillon Factory, a truck bearing registration No. HR-39-2872, being driven by respondent No.1-Amarjit Singh in a rash and negligent manner, came from behind and hit the scooter, as a result of which, claimant and her husband Partap Singh received serious injuries. Unfortunately, Partap Singh died at the spot, whereas claimant was taken to a nearby hospital.

With regard to the accident, FIR No.355 dated 23.12.2004, under Sections 304-A/279/338 IPC was registered at Police Station, Dera Bassi against respondent No.1-Amarjit Singh. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver-respondent No.1 and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of claimant-appellant Sunita Devi (PW-1), who was injured eye witness of the accident. Claimant has also proved on record copy of FIR Ex.P94 and postmortem report Ex.P95. Deceased is a house wife and her income was assessed as Rs.3000/- per month. After the accident, her right leg below knee was amputated. As per deposition of Dr.Rajinder Kumar (PW-2), she has suffered permanent disability to the extent of 70%. The compensation was awarded by the Tribunal as under:-

Sr. No.	Heads	Amount
1.	Compensation for medical expenses	Rs.64,148/-
2.	Transportation charges	Rs.9150/-
3	Pain & sufferings	Rs.14,000/-
4	Special diet and attendant charges	Rs.10,000/-
5	Loss of income due to permanent disability of 70% i.e. 3000 x 70/100 = Rs. 2100 Multiplier = 14	Rs.2100 x 12 x 14 =3,52,800/-
	Total	Rs.4,50,098/- rounded off Rs.4,50,000/-

Ultimately, the claimant was found entitled to a total compensation of Rs.4,50,000/- along with interest at the rate of 9% from the

date of filing of the claim petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

Learned counsel for the appellant while referring to a judgment passed by Hon'ble the Supreme Court in **Lata Wadhwa vs. State of Bihar**, 2001 (4) RCR (Civil) 673, contends that the compensation has been awarded on a lower side.

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 to the effect that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. A perusal of the impugned award shows that the accident had taken place on 23.12.2004. Claimant-appellant is a house wife. As per deposition of Dr. Rajinder Kumar (PW-2), claimant-appellant has suffered permanent disability to the extent of 70% and her right lower leg, below knee, had to be amputated. In these circumstances, notional income of claimant (housewife) is being assessed as Rs.5000/- per month. Keeping in view her age, multiplier of 14 is being applied. Accordingly, loss of income of claimant, due to permanent disability, comes to Rs.5,88,000/- (5000 x 70/100 x 12 x 14). Keeping in view the peculiar circumstances of the present case, compensation is hereby re-assessed in the light of the judgments passed by this Court in **Muneet Kumar @ Mani vs. Naveen Joshi and others**, FAO No.6073 of 2012 (decided on 16.09.2015) and **Rishi Pal vs. Sudhir Singh and another**, 2015 (48) RCR (Civil) 882, as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
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(i)	Compensation for medical expenses	Rs.64,148/-
(ii)	Transportation charges	Rs.10,000/-
(iii)	Pain & sufferings	Rs.1,50,000/-
(iv)	Special diet and attendant charges	Rs.10,000/-
(v)	Loss of income due to permanent disability of 70%	5,88,000/-
(vi)	Loss of amenities of life, artificial limb etc.	Rs.1,50,000/-
(vii)	Future treatment	Rs.2,00,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.11,72,148
(ix)	Enhanced amount of compensation	Rs.11,72,148 – 4,50,000 = Rs.7,22,148/-

The enhanced amount of compensation of **Rs.7,22,148/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

03.07.2019
ajp

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