

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

FAO-350-2012 (O&M) and
X-objections No.87-CII-2013
Date of Decision: 19.7.2019

Nirmla Devi

.....Appellant

Versus

Shyam Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sanjay Mittal, Advocate and
Mr. Bhunesh Lakhera, Advocate, for the appellant.

Mr. Ashwani Talwar, Advocate and
Mr. Aditya Ranyal, Advocate, for the respondents.

NIRMALJIT KAUR, J. (ORAL)

Both the appeal and cross-objections shall stand decided by this
common order.

The appeal has been filed by the claimant for enhancement of
compensation awarded by the Motor Accident Claims Tribunal, Narnaul
(for short, the Tribunal').

While praying for enhancement of compensation, learned
counsel for the appellant submitted that the Tribunal after hearing learned
counsel for the parties and going into the entire evidence recorded a finding
that the claimant was entitled to a total amount of ₹ 24,58,744/- as per the
following calculation:-

1.	Medical bills	₹ 5,04,244/-
2.	Disability	₹ 2,00,000/-
3.	Loss of Income	₹ 7,20,000/-
4.	Non-pecuniary factors i.e. pain and suffering and loss of enjoyments	₹ 10,00,000/-

Total ₹ 24,58,744/-

However, in spite of the above findings, the same was restricted only upto the amount of ₹ 10 lacs , as the appellant-claimant claimed only ₹ 10 lacs. Para 21 of the award of the Tribunal reads as under:-

“But since the claimant has only claimed compensation to the time of Rs.10,00,000/- so her claim has to be restricted upto the amount of Rs.10 lacs only and as such a sum of Rs.10,00,000/- is hereby awarded to the claimant as compensation out of the aforesaid amount of compensation.”

Cross-objections have been filed by the respondent-Insurance Company. A perusal of the cross-objections as well as after hearing learned counsel for the Insurance Company, this Court finds that the objections are formal and there is no merit in them. Hence, they deserve to be rejected. The arguments of learned counsel for the respondent that the appellant-claimant is not entitled to enhanced amount as the amount claimed by her have been granted, she cannot get more than she claimed. Her claim stands satisfied.

Whereas, learned counsel for the appellant has placed reliance on the judgment of Hon'ble the Supreme Court rendered in the case of Nagappa vs. Gurudayal Singh and others, 2003(1) RCR (Civil) 258, vide which, it has been specifically held that there is no restriction on the Tribunal to award only upto the amount claimed by the claimant, rather it was the duty of the Tribunal to award just and proper compensation. Thus, the issue that the Tribunal cannot grant more than the amount claimed by the claimant, is no more res integra in view of Nagappa' case (supra), which reads as under:-

“From the aforesaid observations, it cannot be held that there is a bar for the Claims Tribunal to award the compensation in excess of what is claimed, particularly when the evidence which is brought on record is sufficient to pass

such award. In cases where there is no evidence on record, the court may permit such amendment and allow to raise additional issue and give an opportunity to the parties to produce relevant evidence.”

In the present case, it has already been assessed by the Tribunal that the claimant is entitled to ₹ 24,58,744/-. In view of the settled proposition of law and specially taking into account that disability in the present case is 100%, this Court finds no reason as to why the just and fair amount as already determined by the Tribunal, should not be granted. Accordingly, the present appeal for enhancement of compensation is allowed and the cross-objections are dismissed. An amount of ₹ 10 lacs has already paid and balance amount be paid to the appellant-claimant within two months along with interest @ 6% per annum from the date of the claim petition. In case, the balance amount is not paid within two months, the Insurance Company shall be liable to pay interest @ 12% per annum after the expiry of the period of two months.

(NIRMALJIT KAUR)
JUDGE

19.7.2019
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No