

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 223 of 2015(O&M)

Date of Decision: September 10 , 2019.

Mohni Devi Thakur

..... APPELLANT (s)

Versus

Manjit Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Ekta Thakur, Advocate
for the appellant.

Mr. Vinod Chaudhri, Advocate
for respondent No.3 – Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to him by the learned Motor Accident Claims Tribunal, Chandigarh (for short, the 'Tribunal') vide impugned award dated 11.09.2014 on account of the injuries and disability suffered by her in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, a petition under Section 166 of Motor Vehicles Act (for short, the 'Act') was preferred by the appellant seeking compensation on account of the injuries and disability

suffered by her in a motor vehicle accident, which took place on 24.05.2013. It is pleaded that the appellant was travelling in a bus bearing registration No.HP72-5946 which was going from Amb to Nadaun (Himachal Pradesh). The bus was being driven in a rash and negligent manner by respondent No.1, who took a sharp turn at village Khohar near Kohla, Police Station Nadaun, District Hamirpur and drove the bus towards the wrong side of the road. The bus struck against a truck (trolla) bearing registration No.HP55-8111 which was coming from the side of village Nadaun. As a result thereof, passengers including the claimant received grievous injuries. FIR No.66 dated 24.05.2013, under Sections 279/337 IPC, Police Station Nadaun was lodged against respondent No.1 in respect to the incident on the statement of Manohar Lal.

The learned Tribunal on consideration of the facts, circumstances and evidence on record concluded that the appellant sustained injuries in a motor vehicle accident which took place on 24.05.2013 due to the rash and negligent driving of the offending vehicle bearing No.HP72-5946 by respondent No.1- Manjit Singh. Appellant was held to be 54 years old at the time of the accident. Learned Tribunal awarded a total sum of ₹2,39,000/- as compensation to the appellant on account of the injuries and disability suffered by her, details of which are hereunder:-

- | | |
|---|-------------|
| 1. Permanent physical Disability : | ₹1,50,000/- |
| 2. Medical expenses : | ₹50,000/- |
| 3. Special diet, transportation, pain and suffering, attendant charges etc. : | ₹39,000/- |

Aggrieved of the quantum of compensation, present appeal has been preferred by the injured/appellant.

Learned counsel for the appellant submits that a meagre amount has been awarded by the learned Tribunal to the injured-appellant on account of the injuries suffered by her. No amount has been awarded on account of loss of income and amenities. It is thus prayed that the amount of compensation awarded to the appellant be enhanced accordingly.

Learned counsel for respondent No.3 – Insurance Company however submits that just and reasonable compensation has been awarded by the learned Tribunal as per the facts and evidence on record, which calls for no enhancement. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding the injuries suffered by appellant – Mohni Devi Thakur in the motor vehicle accident in question, caused by the rash and negligent driving of the offending vehicle bearing registration No.HP72-5946 by respondent No.1 – Manjit Singh. Finding of the learned Tribunal on this issue has attained finality. Liability of the Insurance Company in this case is also not in dispute.

The appellant was claimed to be earning a sum of ₹10,000/- per month at the time of the accident by doing the work of tailoring and stitching, though there is no documentary evidence on record to prove the same. However, even if taken to be a house-wife, services rendered by a housewife are multifarious. She renders invaluable services in her various facets/roles in a home. Therefore, income of a housewife cannot be equated with that of an unskilled labourer. This Court in FAO No.3395 of 2015 has assessed the income

of a housewife to be ₹7,000/- per month in respect to an accident which took place in the year 2011. In the present case, it is deemed appropriate to assess notional income of the appellant as ₹7,500/- per month for calculating just and reasonable compensation under the head of loss of income.

It is a matter of record that the appellant was taken to the hospital after the accident. She had also undergone surgery in PGI, Chandigarh on 24.05.2013 and remained admitted there till 01.06.2013. Her right arm upto the elbow was amputated. She has suffered permanent disability to the extent of 85% as per the Disability Certificate (Ex.PA). Compensation to the appellant is thus required to be reworked in terms of the guidelines laid down by the Hon'ble Supreme Court in Syed Sadiq etc. v. Divisional Manager, United India Insurance Company, 2014 (1) RCR (Civil) 765. Needless to say, functional disability suffered by the appellant cannot be less than 50% in this case. Therefore, loss of income is assessed as ₹3,750/- per month (7,500x50%).

Increase in income on account of future prospects at the rate of 10% has to be afforded taking the amount to $[(3750 + (3750 \times 10\%)] = ₹4,125/-$ per month i.e., ₹49,500/- per annum. Age of the appellant was admittedly 54 years at the relevant time, therefore, multiplier of 11 is to be applied. Loss of earnings is, thus, assessed as ₹5,44,500/- $[49,500 \times 11]$.

Instead of a consolidated sum of ₹50,000/- awarded towards pain and sufferings, special diet, transportation, attendant charges, the appellant is held entitled to ₹1,00,000/- towards pain and suffering, ₹50,000/- towards loss of amenities, ₹5,000/- on account of transportation, ₹20,000/- towards attendant charges and ₹10,000/- on account of special diet. ₹39,000/- awarded by the

learned Tribunal on account of medical and hospital expenses is maintained.

Appellant is, thus, entitled to compensation detailed as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of earnings	₹5,44,500
2.	Pain and sufferings	₹1,00,000
3.	Loss of amenities	₹50,000
4.	Transportation	₹5,000
5.	Attendant charges	₹20,000
6.	Special diet	₹10,000
7.	Medical expenses	₹39,000
Grand Total		₹7,68,500/-

Amount already awarded by the Tribunal to the appellant/claimant under various heads shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

September 10 , 2019.
'om'

(LISA GILL)
JUDGE

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