

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

FAO No.4671 of 2013
Date of decision :20.2.2019

Jyoti

.....Appellant

Versus

Kalyan Mal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr.Ajay Aggarwal, Advocate for
Mr.Sandeep Goyat, Advocate for the appellant.
Mr.Subhash Goyal, Advocate for respondent No.3.

AVNEESH JHINGAN, J.

1. The award dated 18.4.2013 passed by the Motor Accident Claims Tribunal, Hisar (for brevity, `the Tribunal') has been assailed by appellant-Jyoti seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, `the Act') for the injuries sustained in a motor vehicular accident.

2. The facts in brief are that a motor vehicular accident took place on 1.1.2012. Appellant-Jyoti along with her husband and others was travelling in the car bearing registration No.GJ-I-KJ-6966. The car was being driven by Harish Sharma. On the way, the car was struck by a rashly and negligently driven truck bearing registration

No.RJ-14GA-5488 (hereinafter referred to as `offending vehicle). As a result of the impact, the appellant sustained injuries. FIR No.5 dated 2.1.2012 was registered at Police Station, Sadar Hisar.

3. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The driver, owner and insurer of the offending vehicle were held jointly and severally liable to pay the compensation. The Tribunal after considering the fact that the appellant was hospitalized for nine days awarded compensation of ₹1,10,558/- along with interest @7.5% per annum. Details of compensation is given below:

Expenses incurred on treatment	Rs.70,558-00
Compensation on account of hospitalization	Rs.20,000-00
Compensation on account of pain and suffering	Rs.20,000-00
Total	Rs.1,10,558-00

4. Learned counsel for the appellant contends that the appellant was hospitalized for nine days and she was operated upon as she had sustained liver injury. The grievance is that the Tribunal has not awarded any sum for attendant charges, transportation, special diet, loss of

income and the amount awarded for pain and suffering is on lower side.

5. Learned counsel for the insurer contends that there was no permanent or temporary disability and the appellant was hospitalized only for nine days. The medical expenses were reimbursed. He resisted any further enhancement.

6. Heard learned counsel for the parties and perused the paper book.

7. The appellant sustained blunt injuries and these were proved by the deposition of Dr.Lalit Mohan Bansal (PW5). He deposed that the patient was operated upon and she had liver injury also. Considering the fact the appellant had to undergo a surgery, he would have needed attendant during the period of hospital and thereafter also. Transportation would have also been required and special diet for speedy recovery would have been given and she would not have attended to her occupation not only during the period of hospitalization but till her recovery. During this period, she also suffered pain and suffering.

8. Considering the facts of the case, an amount of ₹10,000/- is awarded for the attendant charges, ₹10,000/- for transportation, ₹10,000/- for special diet, ₹10,000/- for loss of income and ₹20,000/- for pain and suffering awarded by the Tribunal is enhanced by ₹10,000/-.

9. The award dated 18.4.2013 is modified to the extent that amount of ₹1,10,558/- awarded by the Tribunal is enhanced to ₹1,60,558/-. The appellant shall be entitled to the entire amount including the enhanced amount along with interest @7.5% per annum from the date of filing of the claim petition till the realization of the amount.

10. The appeal is allowed in the aforesaid terms.

February 20,2019
KD

(AVNEESH JHINGAN)
JUDGE

Whether speaking / reasoned:
Whether Reportable:

Yes / No
Yes / No