

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

FAO No.2508 of 2015
Date of Decision: 15.02.2019.

Rani Kapoor. ...Appellant

Versus

Sachin Jain and another.Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Shrey Goel, Advocate for the appellant.
Mr. Diwan S. Adlakha, Advocate for respondent No.1.
Mr. Vinod Gupta, Advocate for respondent No.2.

B.S.WALIA, J (Oral).

1. Appeal has been filed by the claimant seeking enhancement of compensation of ₹2,17,615/-, awarded by the learned Motor Accidents Claims Tribunal, Karnal, (hereinafter referred to as ‘the Tribunal’), on account of injuries sustained by the appellant in a motor vehicular accident on 11.01.2011.
2. The learned Tribunal on the basis of the bills awarded a sum of ₹1,57,615/- on account of hospitalization and medical expenses and by taking into account that the appellant had remained out of work for about four months on account of injuries received by her in the accident awarded ₹12,000/- as loss of income. Besides the learned Tribunal also awarded compensation under various heads as enumerated below:-

Sr. No.	Heads of Claim	Amount (in ₹)
1.	Loss of income	12,000/-
2.	Medical expenses i) Medicines ii) Hospital Charges iii) Attendant Charges iv) Special Diet	55,631/- 1,01,984/- 5,000/- 3,000/-
3.	Transportation	10,000/-

4.	Pain and suffering	30,000/-
5.	Loss of future earning qua disability	Nil
6.	Reduction in life expectancy/loss of amenities	Nil
7.	Loss of prospect of marriage	Nil
	Total	2,17,615/-

Learned counsel for the appellant contended that the income of the appellant had not been correctly assessed, besides compensation awarded on account of loss of income, attendant charges, special diet, loss of amenities of life was less and was required to be enhanced by award of appropriate compensation. Per contra learned counsel for the respondent insurance company contends that the compensation awarded is just and proper and does not warrant interference.

3. I have considered the submissions of learned counsel for the parties and have gone through the record.

4. The appellant received injuries on head, left clavicle and right femur. She was treated conservatively and advised surgery for thigh/femur fracture after stabilization and remained in hospital from 11.01.2011 till 13.01.2011, there after she was again admitted in hospital from 13.1.2011 and was discharged on 22.01.2011. Thereafter, the appellant was again admitted in hospital on 19.03.2011 and was discharged on 20.03.2011. The tribunal assessed the income of the deceased @ ₹3,000/- per month and awarded ₹12,000/- on account of loss of income for four months. However, the fact remains that during the year 2011, the minimum wages payable even to an unskilled worker were about ₹4800/- per month as has been admitted by learned counsel for respondent No.2, on the basis of notification issued by the Government of Haryana, under the Minimum Wages Act, for the relevant period, therefore, notional contribution of the

appellant towards her family is taken at ₹4800/- per month instead of ₹3,000/-. Accordingly, as against compensation of ₹12,000/- on account of loss of income, the appellant is held entitled to ₹19,200/- on account of loss of income for four months.

5. A sum of ₹5,000/- was awarded on account of attendant charges. However, taking into account the fact that the appellant remained unable to do any work for a period of four months, I am of the view that the appellant is entitled to attendant charges @ ₹2500/- per month for a period of four months instead of ₹1250/- per month awarded by the Tribunal. Accordingly, as against sum of ₹5,000/-, the appellant is held entitled to sum of ₹10,000/- on account of attendant charges.

6. The appellant was awarded lump sum of ₹3,000/- on account of special diet. However, taking into account the fact that the appellant remained bed ridden for a period of four months, I am of the view that a sum of ₹2500/- per month for a period of four months be awarded to the appellant on account of special diet. Accordingly, as against the compensation of ₹3,000/- awarded by the Tribunal the appellant is held entitled to ₹10,000/- on account of special diet charges.

7. The appellant was awarded ₹10,000/- on account of transportation charges, I am of the view that the same does not warrant any interference. Likewise, ₹30,000/- awarded on account of pain and suffering also does not warrant interference.

8. The appellant had not led any evidence qua permanent disability, therefore no amount was awarded on account of future earnings. The same also does not warrant any interference. Further nothing was awarded on account of reduction of life expectancy. Learned counsel for

the appellant contends that reduction in life expectancy includes loss of amenities of life and on account of injuries sustained, the appellant is entitled to award of minimum of ₹50,000/- on account of loss of amenities of life. The same has been opposed by learned counsel for respondent No.2, by stating that at best a token amount can be awarded on account of loss of amenities of life. In the circumstances, I am of the view that the appellant is entitled to award of ₹15,000/- on account of loss of amenities of life.

9. Learned counsel for the appellant further contends that interest had only been awarded @ 7.5% per annum, whereas as per the decision of Hon'ble the Supreme Court in **Jagdish vs. Mohan and others 2018 (4) SCC 571**, which was also a case involving accident of the year 2011, interest had been awarded @ 9% per annum. Since, the accident in the instant case is also of the year 2011, therefore, the appellant is held entitled to interest @ 9% per annum.

10. Accordingly, as against ₹2,17,615/-, along with interest @ 7.5% per annum awarded by the Tribunal, the appellant is held entitled to ₹2,51,815/- along with interest @ 9% per annum on enhanced amount w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

11. Accordingly, appeal is allowed and award dated 27.11.2014, passed by the learned Tribunal, Karnal is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

15.02.2019.

rajesh.k.khurana

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No