

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4314 of 2014 (O&M)
Date of Decision: 9.9.2019

Fatima

---Appellant

versus

Satbir Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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

**Mr. D.K.Prajapati, Advocate,
for Mr. R.S.Madan, Advocate
for the insurance company**

Rekha Mittal, J.

CM No. 12427-CII of 2014

Prayer in this application is for condoning delay of 5 days in filing the appeal.

Heard.

Allowed as prayed for. Delay of 5 days in filing the appeal stands condoned.

Main case

The claimant is in appeal seeking enhancement of compensation on account of injuries sustained by her in a motor vehicular accident that took place on 11.10.2011.

The Motor Accidents Claims Tribunal, Chandigarh (in short

“the Tribunal”) awarded Rs.12,77,168/-, detailed hereunder:-

Loss of future income an account of disability	Rs. 6,48,000/-
Reimbursement of medical expenses	Rs.44,168
Pain and sufferings	Rs. 50,000/-
Loss of amenities of life	Rs. 50,000/-
Transportation charges	Rs. 5000/-
Special diet	Rs. 10,000/-
Attendant charges	Rs. 2,70,000/-
Future medical expenses	Rs. 2,00,000/-

Counsel for the appellant would argue that injured suffered amputation of leg above knee. Disability has been assessed to the tune of 90%. It is further argued that monthly income of the injured assessed by the Tribunal for computing loss of future income is grossly inadequate. Claimant may be allowed benefit of addition in income for future prospects while computing loss of future income qua disability. It is further argued that compensation awarded by the Tribunal for pain and sufferings, loss of amenities of life, transportation charges and special diet is also on lower side and merits enhancement.

Counsel representing the insurance company would state that there is no justification for allowing additional compensation as the claimant has been awarded Rs. 2,70,000/- towards attendant charges in absence of any evidence that she would be requiring the services of an attendant throughout her life.

Be that as it may, it is undisputed position of the case that injured suffered amputation of right limb and disability has been assessed to the tune of 90% to that particular limb. The Tribunal has treated the injured to be a house-maker and assessed her notional income at Rs. 4000/- per

month. Taking a clue from notification issued by the Union Territory of Chandigarh fixing minimum wage at the relevant time coupled with that a house-maker has multifarious duties to perform, income of the victim is assessed at Rs. 6000/- per month. There is no clear evidence on record as to how disability to a particular limb should be treated for assessing functional disability. At the same time, in my considered opinion, interest of justice would be served if the entire disability is taken into consideration for computing future loss of income but without extending benefit of addition in income for future prospects. In this manner, loss of income on account of disability is assessed at Rs. $6000 \times 12 \times 15 \times 90\% = 9,72,000/-$.

Taking into consideration the nature and extent of disability suffered by the victim, she is awarded **Rs. 1,00,000/-** for loss of amenities of life (additional amount of Rs. 50,000/-). As the Tribunal has awarded a sum of **Rs. 2,70,000/-** for services of an attendant, I do not find any reason to allow additional compensation for pain and sufferings, transportation charges, future medical treatment and special diet.

Reimbursement of medical expenses amounting to **Rs. 44,168/-** allowed by the Tribunal is affirmed.

In view of the above, total compensation is Rs. 13,86,168/- ($9,72,000 + 1,00,000 + 2,70,000 + 44,168$) and the additional amount is Rs. 1,09,000/- ($13,86,168 - 12,77,168$), payable with interest @ 7.5% per annum from the date of petition till realization. Since the entire compensation assessed by the Tribunal has been paid to the claimant, the additional amount shall be invested in fixed deposit but interest accruing thereon shall be paid to the claimant. The claimant would be at liberty to

file an appropriate application before the Tribunal for refund of the whole or part of the amount, invested in fixed deposit, if the circumstances so require.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

9.9.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No