

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O No.6312 of 2013 (O&M)
Date of decision:-September 17, 2019

Ms. Jasleen Kaur

... Appellant

Versus

Mr. Tanvir Singh and another

... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Hittan Nehra and Mr. Karan Mathur, Advocates
for the appellant.

Mr. Payal Singh, Advocate for
Mr. Ajaivir Singh, Advocate for respondent No.1.

M. Anrinder Singh Sidhu, Advocate for respondent No.2.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimant-appellant, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') to the tune of Rs.1,52,465/- vide impugned award dated 22.07.2013 on account of suffering injury in a road accident, which took place on 12.10.2006.

Brief Facts

2. As per claimant, on 12.10.2006, at about 7 p.m., she along with two other students was going to the school in Auto Rickshaw bearing registration No.PB-12-T-F-9965. When they reached near Jai Shakti Enterprises, Village Palsora, U.T., Chandigarh, a metallic silver colour car

bearing registration No.CH-03-W-2835, driven by the respondent No.1, coming from the Chandigarh side at a high speed hit the auto rickshaw. As a result of which the driver and the occupants of the auto rickshaw received injuries. In the said accident, the claimant-appellant sustained grievous multiple injuries and remained admitted in the hospital till 19.10.2006. The accident took place due to rash and negligent driving of respondent No.1. In this regard FIR No.319, dated 12.10.2006, under Sections 279, 337 and 338 IPC was got registered at Police Station Sector 39, Chandigarh.

3. There is no dispute regarding the finding recorded qua issue No.1. This finding has rightly been given in favour of the claimant-appellant. After the accident, the FIR Ex.C1 was registered and challan Ex.C2 was presented against the driver of offending vehicle. As per disability certificate Ex.PX, the claimant has sustained fracture of both shaft demur. There is limb length discrepancy of one inch. Range of Hip and knee movements are full. PPD-5% with respect to whole body. As per statement of the claimant, she cannot walk properly. She feels pain while walking. She cannot run and take part in sports activities and other co-curricular activities. Keeping in view the disability certificate Ex.PX, the Tribunal proceeded to assess the compensation as under:

Compensation Assessed by the Tribunal:

Sr. No.	Head	Amount (Rs.)
1	Notional Income	Rs.5,000/- per month
2	Loss of functional disability @ Rs.250/- p.m.	Rs.3,000/- per annum
3	After applying multiplier of 18	Rs.3,000x18= Rs.54,000/-
4	Loss of amenities and enjoyment of life	Rs.25,000/-
5	Attendant charges	Rs.5,000/-
6	Transportation charges	Rs.5,000/-
7	Special diet	Rs.5,000/-

Sr. No.	Head	Amount (Rs.)
8	Medication	Rs.8,465/-
9	Pain and suffering	Rs.50,000/-
	Total compensation	Rs.1,52,465/-

3. The learned counsel for the claimant-appellant contends that the claimant was 9 years old girl and as per disability certificate there is shortening one inch leg. As a result thereof, she cannot walk properly and she cannot run and take part in sports activities and other co-curricular activities and hence the disability qua the hole body is much higher than 5%. Reference in this regard has been made to the judgment of Hon'ble the Supreme Court in ***“Kumari Kiran vs Sajjan Singh and others”, 2014(4) R.C.R. (Civil) 362.*** In this case, the Apex Court was considering the case of compensation with respect to children, who were 15 and 10 years old. The leg of both the children was shortened by one inch. The Apex Court in the abovesaid judgment, assessed the disability 30% and 20% in respect of children 15 and 10 years old.

4. In the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced.

5. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, as per disability certificate Ex.PX, there is shortening of one inch leg. However, disability is assessed 5%. This Court by applying the ratio of *Kumari Kiran's case (supra)* reassessed the compensation by taking the disability of the claimant-appellant as 20% of

the leg and loss of amenities and permanent disability as Rs.3,00,000/-

Reassessment of Compensation:

Sr. No.	Head	Amount (₹)
1	Pain and suffering	1,00,000/-
2	Agony to parents	Rs.25,000/-
3	Medical Expenses	Rs.8,465/-
4	Attendant	Rs.9,000/-
5	Transportation	Rs.5,000/-
6	Special Diet and nutrition	Rs.10,000/-
7	Permanent disability/loss of amenities	Rs.3,00,000/-
8	Future medical expenses	Rs.25,000/-
	Total compensation awarded	Rs.4,82,465/-
	Enhanced amount of compensation	Rs.4,82,465-Rs.1,52,465+ Rs.3,30,000/-

8. The enhanced amount of compensation of Rs.3,30,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, in view of judgment of Hon'ble the Apex Court in **Civil Appeal No. 4528-2019 titled as Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019**. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

9. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

September 17, 2019

sarita

Whether speaking/reasoned

Whether reportable

(RITU BAHRI)

JUDGE

Yes/No

Yes/No