

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

FAO No. 6072 of 2014 (O&M)

Date of decision : November 13, 2019

Anuradha @ Anuradhika

.....Appellant

Versus

Girdhari Lal and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Amit Singla, Advocate
for the appellant.

Ms. Harshita, Advocate for
Mr. Vineet Chaudhary, Advocate
for respondents No. 1 and 2.

Mr. Vinod Gupta, Advocate
for respondent No. 3.

LISA GILL, J.

This appeal has been preferred by the appellant – Arshad Anuradha @ Anuradhika for enhancement of compensation awarded to her vide award dated 24.07.2012 passed by the learned Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'Tribunal') on account of injuries and disability suffered by her in the motor vehicle accident, which took place on 08.05.2010.

Brief facts necessary for adjudication of the case are that the appellant was involved in a motor vehicle accident on 08.05.2010. She was going on foot to IMT, Manesar from the bus stand at Manesar. She was walking on the left side of the road. At that time, the offending vehicle, Truck bearing registration No. RJ-14-2G/7963 driven by respondent No. 1 at a very fast speed, in a rash and negligent manner, came from behind without blowing any horn and and struck against the appellant. As a result

thereof, the appellant received multiple injuries and her right leg was crushed in the accident. She was shifted to Vijay Hospital, Manesar. Thereafter, she was removed to Sunrise Hospital, Gurgaon, where she was medico legally examined and remained admitted there till 11.05.2010. The appellant was shifted to Medanata, the Medicity, Gurgaon, where her right lower limb was amputated. She remained admitted there till 28.05.2010. Claim petition under Section 166 of Motor Vehicles Act was preferred by the appellant seeking compensation on account of the injuries and disability suffered by her.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to rash and negligent driving of offending vehicle truck bearing registration No. RJ-14-2G/7963 driven by respondent No. 1. This finding of the learned Tribunal has attained finality. The learned Tribunal afforded compensation to the appellant detailed as hereunder:-

Pecuniary damages		
1.	Loss of income	5000x12=60000x18x75% =8,10,000-00
2.	Transport to hospital	Nil (no evidence)
3.	Attendant charges	Nil (no evidence)
4.	Diet and nutrition	Nil (no evidence)
5.	Medical expenses	4,19,000-00
Non-pecuniary damages		
6.	Pain and suffering Claimant has suffered amputation of right leg below knee and surgeries were performed and she also remained hospitalised for about 23 days	50,000-00
7.	Loss of amenities of life Permanent disablement of 75% in relation to whole body	75,000.00
	Total	Rs.13,54,000-00

Present appeal has been filed seeking enhancement of the compensation awarded.

Learned counsel for the appellant submits that compensation awarded to the appellant is required to be enhanced as she suffered amputation of her right leg below the knee. It is further submitted that increment on account of loss of future prospects has not been afforded. It is argued that no compensation has been afforded on account of transportation, special diet etc. and the compensation afforded on account of pain and suffering is meagre. It is, thus, prayed that compensation awarded to the appellant be enhanced accordingly.

Learned counsel for the respondent - insurance company, while refuting the arguments raised, submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed and the impugned award dated 24.07.2012 be upheld.

I have heard learned counsel for the parties and have perused the file with their assistance .

There is no dispute that the appellant suffered serious injuries in the motor vehicle accident, which took place on 08.05.2010 due to rash and negligent driving of the offending vehicle by its driver - respondent No. 1. The appellant – claimant admittedly suffered amputation of her right leg below the knee in the said accident and she suffered permanent disability of 75% in relation to the whole body. The claimant was admittedly working with Mindarika Private Limited at the time of the accident. She is an educated person, having done her Masters in History from Kurukshetra University. She had also obtained training from Regional

P60 in this respect are on record.

PW7 Vikas Yadav, Assistant Manager, Mindarika Private Limited has proved that the appellant was in receipt of salary of ₹4883/- per month. Salary certificate was proved as Ex. P52. PW7 has testified that the claimant was working in the Assembly Department, as an Operator and she used to work on the machines while standing. It is categorically stated by PW7 that operator has to remain standing while operating the machine and the claimant due to her disability, will not be able to operate the machines. The claimant is proved to have worked in the factory.

Learned counsel for the insurance company does not dispute income of the claimant to be ₹4,883/- per month at the time of the accident, though it is vehemently argued that the claimant – appellant is an educated person, thus, her functional disability should not be assessed to be more than 50%. However, I do not find any merit in this argument. As per the evidence on record, the claimant is unable to continue with the job for which she obtained special training as well, therefore, functional disability has been rightly assessed to be 75% by the learned Tribunal. Income of the appellant has been assessed by the learned Tribunal with reference to the salary, which the appellant was receiving at the time of accident. However, it is not in dispute that the appellant at the time of the accident was married and she was also looking after her household at that time. Needless to say, her ability to look after the household is also affected adversely with the amputation of her leg. In my considered opinion, income of the appellant has to be assessed while keeping in mind her contribution towards looking after her household as well. Therefore, income of the appellant is assessed as ₹8,000/- per month. Appellant is also entitled to 40% increment on

account of loss of future prospects in view of her age i.e. 25 years at the time of accident. A multiplier of 18 has to be applied.

As per the guidelines laid down by the Hon'ble Supreme Court in Sayed Sadiq etc. versus Divisional Manager, United India Insurance Company 2014 (1) R.C.R. (Civil) 765, the appellant is entitled to loss of future income of ₹18,14,400/- [(₹8000x75/100) + (40/100 x 75/100 x ₹8000) x 12 x 18]. The appellant is further entitled to a sum of ₹1,00,000/- each for pain and suffering (instead of ₹50,000/-) and loss of amenities (instead of ₹75,000/-) awarded by the learned Tribunal. The appellant is entitled to a sum of ₹20,000/- each on account of special diet and attendant charges and a sum of ₹10,000/- on account of transportation. As the appellant was admittedly 25 years old at the time of the accident, it is apparent that she would be required to change her prosthetic leg during her life time, thus, she is entitled to a sum of ₹1,00,000/-. Needless to say, the appellant shall be entitled to the sum of ₹4,19,000/- on account of medical expenses as already awarded by the learned Tribunal.

The appellant is, thus, entitled to compensation detailed as under:-

Loss of future income	₹18,14,400/-
Pain and suffering	₹1,00,000/-
Loss of amenities	₹1,00,000/-
Special diet	₹20,000/-
Attendant charges	₹20,000/-
Transportation	₹10,000/-
Medical expenses	₹4,19,000/-
Artificial limb/Prosthetic	₹1,00,000/-
Total	₹25,83,400/-

Amount of compensation already awarded to the appellant shall stand deducted from the amount calculated as above. Appellant shall be

entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realisation.

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

November 13, 2019
rts

(Lisa Gill)
Judge

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