

In the High Court of Punjab and Haryana at Chandigarh

FAO- 568 of 2015 (O&M)
Date of Decision: 28.11.2019

Jyoti Rani

---Appellant

versus

Resham Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. C.L.Verma, Advocate
for the appellant

Mr. Shivoy Dhir, Advocate,
for respondents No. 1 and 2

Mr. Rajbir Wasu, Advocate
for respondent No. 3

Rekha Mittal, J.

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 18.11.2012.

The Motor Accidents Claims Tribunal, Ludhiana (in short “the Tribunal”) awarded Rs.12,05,151/-, detailed hereunder:-

Medical expenses	Rs. 1,65,151/-
Future loss of income on account of disability	Rs. 5,40,000/-
Pain and suffering	Rs. 1,75,000/-
Special diet and transportation etc.	Rs. 25,000/-
Cost of artificial limb	Rs. 1,00,000/-
Loss of marriage prospects	Rs. 2,00,000/-

Jyoti Rani, injured is present in court, in compliance with order

dated 20.9.2019. She has suffered amputation of left lower limb and uses walker for walking as she has not got an artificial limb affixed.

Counsel for the appellant would argue that compensation allowed by the Tribunal under various heads is inadequate and merits enhancement. It is argued that victim was a student of B.Sc. (IT) in Punjab Technical University and she could not pursue her studies because of sustaining injuries rendering her disable to the extent to 83%, as per disability certificate Ex. C-10.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal. However, it has been argued that as three persons were travelling on ill-fated motor cycle bearing No. PB-10 DU(T) 5816 driven by one of the brothers of victim who was possessing Learner's Licence only, contributory negligence is liable to be attributed to the victim and she is not entitle to compensation to that extent.

The Tribunal framed issues No. 1 and 2, reads thus:-

“1. Whether claimant Jyoti Rani suffered injuries in a roadside accident occurred on 18.11.2012 in the area of P.S. Mukandpur, Shaheed Bhagat Singh Nagar? OPA

2. Whether the accident was caused with the negligent driving of truck bearing No. PB-02-AJ-9669 being driven by Resham Singh, respondent No. 1? OPA”

Both these issues were taken up together and decided in favour of the appellant-claimant with the findings that appellant suffered injuries in a roadside accident caused due to rash and negligent driving of truck bearing No. PB-02-AJ-9669 by Resham Singh-respondent No. 1. The insurance company did not prefer an appeal against the award nor filed

cross objections to assail findings of the Tribunal on issues No. 1 and 2.

This apart, the mere fact that three persons were travelling on the motor cycle on which the injured was travelling as a pillion rider, *ipso facto* is not a ground to attribute contributory negligence either to driver of the motor cycle much less to pillion rider. Counsel for the insurance company has failed to point out any materials on record that travelling of three persons on the motor cycle has contributed in any manner to cause the occurrence. In this view of the matter, contention raised by counsel for the insurance company to assail findings of the Tribunal on issue No.2 is not meritorious and accordingly rejected.

This brings the Court to compensation payable to the injured victim. The Tribunal has allowed reimbursement of medical expenses to the tune of **Rs. 1,65,151/-** based upon documentary evidence. The same is affirmed.

The victim was 19 years and 9 months old at the time of occurrence rendering her to lead remaining life with one lower limb as her left leg below knee got amputated. Though the claimant has been awarded Rs. 1,00,000/- towards cost of artificial limb but she has not opted to purchase artificial limb. Claimant is able to walk with the help of walker. It is difficult to believe that she could not pursue her further studies because of suffering of amputation of left lower limb. At the same time, no amount of money can be substitute for such a victim who has suffered serious trauma of amputation of lower limb at a young age of about 20 years. There is no dispute that she was a student of B.Sc (IT) at the time of occurrence. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, notional income of injured is assessed

at Rs.6500/-. The Tribunal has assessed functional disability to the extent of 50% and the same is affirmed. By applying multiplier of 18, loss of future income is calculated at **Rs. 7,02,000/-** $[(6500 \times 12 \times 18) \times 50\%]$.

Compensation awarded by the Tribunal for pain and sufferings, loss of marriage prospects is affirmed. Similarly, compensation for special diet, transportation etc. is maintained. Though the victim has not purchased an artificial limb but she is entitle to be compensated for the price of artificial limb which she may got affixed in future. Claimant shall be entitle to Rs. 2 00,000/- for price of artificial limb to be used for the rest of life (additional amount of Rs. 1,00,000/-).

Total compensation is Rs. 14,67,151/- $[1,65,151 + 7,02,000 + 1,75,000 + 2,00,000 + 25,000 + 2,00,000]$ and the additional amount is Rs. 2,62,000/- payable with interest @ 7% per annum from the date of petition till realization.

The Tribunal has not awarded any interest on assessed compensation in case payment is made within two months but without assigning any reason to extend this concession to the respondent therein and denying this benefit to the claimant. Compensation assessed by the Tribunal shall carry interest @ 7.5% from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

28.11.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No