

FAO No. 7942 of 2015

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

FAO No. 7942 of 2015

Date of Decision: March 26, 2019

Shakshi

..... Appellants(s)

Versus

Daljinder Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Swarn Sandhir, Advocate
for the appellant.

None for respondents no.1 & 2.

Mr. Vinod Chaudhari, Advocate
for respondent no.3.

LISA GILL, J.(oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimant vide award dated 03.07.2015, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal).

Petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the appellant seeking compensation on account of injuries sustained by her in a motor vehicle accident, which took place on 24.09.2014, due to the rash and negligent driving of the offending canter bearing registration No. PB-11-BK-1728 by its driver Daljinder Singh - respondent no.1. Left leg of the claimant was amputated above the knee joint. Compensation was accordingly claimed.

Learned Tribunal concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver. Claim set up by the appellant that she was working as a Compounder with Dr. Harvinder Pal, earning a salary of Rs.10,000/- per month, was discarded due to the lack of evidence. Income of the appellant was assessed as Rs.4,500/- per month while treating the appellant to be a house-hold lady. Functional disability of the appellant was treated to be 50%. Learned Tribunal awarded a sum of Rs.6,25,042/-, detail of which is as under:-

1.	Disability and future diminution of earnings	4,32,000/-
2.	Medicine bills	48,042/-
3.	Pain and sufferings	50,000/-
4.	Loss of earnings	20,000/-
5.	Attendant charges during the period of hospitalization and subsequent period of recovery	15,000/-
6.	Special Diet/extra nourishment	10,000/-
7.	Prosthesis	50,000/-
	Total	6,25,042/-

Learned counsel for the appellant argues that meagre compensation has been afforded by the learned Tribunal, which should be enhanced keeping in view the fact that the appellant has lost her leg and she has to face the consequences thereof through-out her life.

Learned counsel for respondents, however, prays that there is no scope for any enhancement of compensation awarded to the appellant, as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the file.

There is no dispute regarding the appellant losing her left leg above the knee joint in the accident, which took place on 24.09.2014, due to the rash and negligent driving of the offending canter bearing registration No. PB-11-BK-1728, by its driver Daljinder Singh-respondent no.1. This finding of the learned Tribunal has attained finality. Disability of the appellant is 80% as per the disability certificate Ex. C-41. Appellant was 32 years old at the time of accident. Learned counsel for the appellant is unable to deny that there is indeed no evidence on record to prove that she was working as a Compounder with Dr. Harvinder Pal except the bald statement of the appellant herself. In the facts and circumstances of the case, learned Tribunal has rightly held the claimant as a house-hold lady. However, her income in the year 2014 cannot be assessed as Rs.4,500/- per month. This Court in FAO No.3395 of 2015, titled as **Ved Parkash and others Vs. Ram Sarup and others** decided on 08.10.2018, has concluded, notional income of a house wife in respect of an accident which took place in the year 2011, to be Rs. 7,000/- per month. Accident in the present case took place in September 2014. It is, thus, deemed appropriate to assess notional income of the appellant as Rs.7,700/- per month instead of Rs.4,500/- per month.

It cannot be disputed that at the age of 32, the appellant is expected to discharge all her duties as a wife, mother etc. Therefore, her functional disability is assessed as 60% instead of 50%.

Compensation to the appellant is thus required to be reworked in terms of the guidelines laid down by the Hon'ble Supreme Court in Sayed Sadiq etc. Vs. Divisional Manager, United India Insurance Company, 2014(1) RCR (Civil) 765. Therefore, loss of income is assessed as Rs.4,620/- per month (7,700/- x 60%).

Increase in income on account of future prospects at the rate of 40% has to be afforded taking the amount to [4,620 + 1,848 (4,620 x 40%)] Rs.6,468/- per month i.e. Rs. 77,616/- per annum. Multiplier of 16 is to be applied. Loss of earnings is, thus, assessed as Rs.12,41,856/- [77,616 x 16].

Appellant is entitled to actual loss of earning for at least a period of six months. Therefore, she is entitled to Rs.27,720/- (4,620/- x 6) instead of Rs.20,000/- awarded by the learned Tribunal. She is also entitled to a sum of Rs.25,000/- instead of Rs.15,000/- awarded by learned Tribunal for attendant charges. Instead of Rs.10,000/- awarded by learned Tribunal on account of special diet, the appellant is entitled to Rs.15,000/-. The amount of Rs.50,000/- awarded by the learned Tribunal for the cost of prosthetics and Rs.48,042/- awarded on account of medical bills is maintained. Appellant is entitled to Rs.75,000/- instead of Rs.50,000/- awarded by the learned Tribunal on account of pain and sufferings.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Disability and future diminution of earnings.	12,41,856/-

2.	Loss of earnings for six months.	27,720/-
3.	Medicine bills.	48,042/-
4.	Pain and sufferings.	75,000/-
5.	Attendant charges.	25,000/-
6.	Special diet	15,000/-
7.	Prosthetics	50,000/-
	Total	14,82,618/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the entire awarded amount at the rate of 7.5% per annum instead of 6% from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

March 26, 2019.
Sunil

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