

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

Date of decision: 09.04.2019
FAO No.7388 of 2016 (O&M)

Balvinder ... Appellant

Versus

Vikas and another ... Respondents

FAO No.7741 of 2016 (O&M)

Smt. Nathia ... Appellant

Versus

Vikas and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Anil K. Gahlawat, Advocate for the appellant.
Mr. Rajbir Wasu, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.7388 and 7741 of 2016 as these have emerged out of the same award dated 01.12.2015 passed by the Motor Accidents Claims Tribunal, Jhajjar whereby compensation has been assessed on account of injuries sustained by Balvinder (appellant in FAO No.7388 of 2016) and Smt. Nathia (claimant in FAO No.7741 of 2016) in a motor vehicular accident that took place on 15.09.2012.

CM No.25275-CII of 2016 in FAO No.7388 of 2016

Heard.

Allowed as prayed for. Delay of 96 days in filing the appeal stands condoned.

FAO No.7388 of 2016

The Tribunal has awarded Rs.1,50,000/-, detailed hereunder:-

Loss of amenity for 25% disability	Rs.1,00,000/-
Pain and sufferings	Rs.25,000/-
Special diet, transportation and attendant etc.	Rs.25,000/-

Counsel for the appellant would argue that Balvinder was working with CPA Global Support Services India Pvt. Ltd., Noida at salary of Rs.58,333/- per month. He remained on medical leave for 10 months but the Tribunal has not awarded compensation qua loss of income. He would further argue that compensation allowed under various heads is grossly inadequate and needs enhancement.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal with the submission that the claimant has not examined a witness from the aforesaid company in order to prove his income/salary or his having stayed away from the work for a period of about 10 months.

The claimant appeared in the witness box and produced a copy of salary certificate Ex.P14. He, for the reasons best known, did not examine a witness from CPA Global Support Services India Pvt. Ltd., Noida to prove his salary and period of absence from duty much less that because of absence from duty he lost his income. In this view of the matter, it is difficult to accept contention of the appellant that he is entitle to loss of income @ Rs.58,333/- per month for a period of 10 months. However,

taking into consideration that the injured remained admitted in the hospital from 15.09.2012 to 20.09.2012 and suffered fracture trochanter right side with plating and fracture supra condylar femur (R) operated with plating with mild stiffness of right knee, he is awarded a sum of Rs.15,000/- for loss of income during the period of treatment and recovery. Compensation awarded by the Tribunal under various heads appears to be adequate and accordingly affirmed. The additional amount of Rs.15,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization.

FAO No.7741 of 2016

The Tribunal has awarded Rs.1 lakh, detailed hereunder:-

Loss of amenity for 25% disability	Rs.50,000/-
Pain and sufferings	Rs.25,000/-
Special diet, transportation and attendant etc.	Rs.25,000/-

Counsel for the appellant would argue that the injured suffered fracture trochanter right side with plating and fracture supra condylar femur (R) operated with plating with mild stiffness of right knee but the Tribunal has not awarded any compensation with regard to loss of her services as a house-maker. It is further argued that compensation awarded by the Tribunal under various heads is grossly inadequate.

The injured remained hospitalised w.e.f 15.09.2012 to 30.09.2012. Dr. Chauhan PW1 was examined to prove disability suffered by the victim and disability certificate Ex.P1. He would depose that she has

suffered 25% permanent disability on account of fracture trochanter right side with plating and fracture supra condylar femur (R) operated with plating with mild stiffness of right knee and disability is qua particular limb and not for the whole body. Taking into consideration the nature of injuries sustained coupled with period of hospitalisation, claimant is allowed loss of her services as a house-maker for a period of three months @ Rs.7000/- per month i.e. Rs.21,000/-.

The injured has suffered disability to the extent of 25%. She was 54 years old at the time of occurrence. She is awarded a sum of Rs.1,25,000/- qua loss of her services on account of disability and amenities of life (additional amount of Rs.75,000/-). Compensation awarded by the Tribunal on account of pain and sufferings, special diet, transportation and attendant etc. is affirmed. The additional amount of Rs.96,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

09.04.2019
ashok

(REKHA MITTAL)
JUDGE

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