

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

FAO No. 2073 of 2018 (O&M)

Date of decision : December 02, 2019

Sunita

....Appellant

Versus

Mannu and others

....Respondents

FAO No. 3725 of 2018 (O&M)

Rajesh Kumar

.....Appellant

Versus

Mannu and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jayoti Parshad Sharma, Advocate
for the appellant.

Mr. Manmohan, Advocate for
Mr. Suman Jain, Advocate
for respondent No. 3.

LISA GILL, J.

This judgment shall dispose of FAO No. 2073 of 2018 (Sunita Versus Mannu and others) and FAO No. 3725 of 2018 (Rajesh Kumar versus Mannu and others) which arise out of a common award dated 17.10.2017 passed by the learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as the 'Tribunal').

These appeals have been preferred by the appellants – Sunita and Rajesh Kumar for enhancement of compensation awarded to them vide award dated 17.10.2017 passed by the Tribunal on account of injuries suffered by them in the motor vehicle accident, which took place on 26.08.2014.

Brief facts necessary for adjudication of the case are that the

appellants pleaded that they were involved in a motor vehicle accident which took place on 26.08.2014. The appellants were going from Indri to their village Garhi Jattan, on their new motorcycle bearing registration No. HR-99(TP) 1049 driven by appellant – Rajesh Kumar. When they reached near the Bhadson turn near Karnal – Indri road, the offending Car bearing registration No. HR-02W-3663, being driven in a rash and negligent manner, came at a high speed from the opposite side and struck against the motor cycle. Both the appellants suffered multiple and grievous injuries. Claim petitions under Section 166 of Motor Vehicles Act were preferred by the appellants seeking compensation on account of the injuries suffered by them.

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 Car, bearing registration No. HR-02W-3663 driven by respondent No. 1. This finding of the learned Tribunal has attained finality.

Learned Tribunal awarded compensation of ₹86,803/- (rounded off to ₹87,000/-) to appellant – Sunita which is detailed as hereunder:-

a) Loss of income	:	₹20,000/-
b) Medical expenses	:	₹24,303/-
c) Special diet	:	₹10,000/-
d) Transportation charges	:	₹5,000/-
e) Attendant charges	:	₹7,500/-
f) Pain and suffering	:	₹20,000/-

Learned Tribunal awarded compensation of ₹1,42,657/- (rounded off to ₹1,42,700/-) to appellant – Rajesh Kumar which is detailed as hereunder:-

a) Loss of income	:	₹24,300/-
b) Medical expenses	:	₹75,857/-
c) Special diet	:	₹10,000/-

d) Transportation charges	:	₹5,000/-
e) Attendant charges	:	₹7,500/-
f) Pain and suffering	:	₹20,000/-

Present appeals have been filed seeking enhancement of the compensation awarded.

Learned counsel for the appellants submits that both the appellants are entitled to enhanced compensation. Meagre compensation has been afforded on account of pain and suffering, transportation, special diet etc. It is, thus, prayed that compensation awarded to the appellants be enhanced accordingly.

Learned counsel for the respondent - insurance company 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 17.10.2017 be upheld.

I have heard learned counsel for the appellants and respondent No. 3 and have perused the file with their assistance .

In respect to the appellant – Sunita (in FAO No. 2073 of 2018), it is a matter of record that the claimant suffered a head injury. She was diagnosed with 'mild head injury with fracture of left glenoid cavity with fracture at the base of first metacarpal as well'. She remained admitted in Cygnus Hospital, Karnal from 26.08.2014 to 30.08.2014. PW2 Dr. Kundan has deposed in respect to the injuries suffered by Sunita and that she was discharged in a stable condition on 30.08.2014. Sunita, admittedly did not suffer any permanent disability. A perusal of award reveals that learned Tribunal has awarded just and reasonable compensation under all the heads except pain and suffering. The compensation of ₹20,000/- awarded under

the pain and suffering is, thus, enhanced to ₹50,000/-. Rest of the compensation awarded under the other heads as per the evidence on record, is maintained. Appellant – Sunita is, thus, entitled to compensation detailed as under:-

a) Loss of income	:	₹20,000/-
b) Medical expenses	:	₹24,303/-
c) Special diet	:	₹10,000/-
d) Transportation charges	:	₹5,000/-
e) Attendant charges	:	₹7,500/-
f) Pain and suffering	:	₹50,000/-
Total	:	₹1,16,803/-
		(rounded off to ₹1,17,000/-)

In respect to the claimant – appellant Rajesh Kumar (in FAO No. 3725 of 2018), the claimant admittedly suffered crush injury of his left foot. As per discharge summary and certificate issued by Dr. Sanjiv Bansal, Cygnus hospital, Karnal, appellant – Rajesh Kumar remained admitted from 26.08.2014 to 04.09.2014 and the treatment given is mentioned as 'ORIF with K-Wire fixation under SA on 27.08.2014'. Therefore, it is clear that surgery was carried out in respect to the claimant's foot. There is specific medical evidence in the form of testimony of PW3 Dr. Vinod Kamal, Orthopaedic Surgeon, KCGMC, Hospital, Karnal and PW1 Dr. Vikas Moudgil, Medical Officer, CHC, Indri, that due to crush injury on the left ankle and foot, claimant is suffering from 5% permanent disability qua the limb. It is apparent that with the kind of injury which the appellant suffered, he would not have been able to attend his work for atleast a period of four months. Income of the appellant – Rajesh Kumar has been assessed as ₹8,100/- per month by the learned Tribunal. Therefore, he is entitled for loss of income for four months i.e. a sum of ₹32,400/- (₹8100x4) instead of ₹24,300/-. The appellant - claimant is also entitled to a sum of ₹10,000/-

towards physical disability. The compensation of ₹20,000/- awarded under the pain and suffering is enhanced to ₹50,000/-. Rest of the compensation awarded under the other heads is maintained

Appellant – Rajesh Kumar is, thus, entitled to compensation detailed as under:-

a) Loss of income	:	₹32,400/-
b) Medical expenses	:	₹75,857/-
c) Special diet	:	₹10,000/-
d) Transportation charges	:	₹5,000/-
e) Attendant charges	:	₹7,500/-
f) Pain and suffering	:	₹50,000/-
g) Physical disability	:	₹10,000/-
Total	:	₹1,90,757/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the entire amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, FAO Nos. 2073 and 3725 of 2018 are disposed of.

December 02, 2019
rts

(Lisa Gill)
Judge

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