

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

CM No. 18684 CII of 2017 in/and
FAO No. 5714 of 2017 (O&M)
Date of Decision: 13.11.2019

Sweta

...Appellant

Versus

Vijayant Bhateja and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Narender Kaajla, Advocate
for the applicant/appellant.

Mr. Garvir Walia, Advocate,
for respondent No.1.

Mr. Satish Jain, Advocate,
for respondent No. 2.

JAISHREE THAKUR, J.

CM No. 18684 CII of 2017

For the reasons stated in the application, which is supported by
an affidavit, the delay of 12 days in filing the appeal is condoned.

The application stands disposed of.

FAO 5714 of 2017

1. This appeal seeks to challenge the award dated 9.1.2017 passed
by the Motor Accident Claims Tribunal, Hisar, wherein the appellant herein
has been allowed compensation of a sum of ₹2,70,000 on account of the
injuries suffered by her.

2. In brief, the facts are that in an accident that took place on

24.5.2009, the appellant herein suffered serious injuries. Therefore, the claimant filed a claim petition, while stating that on account of rash and negligent driving of the Tata Indica car bearing registration No. HR-20M-4850, the appellant suffered fractures on both bone right leg. She remained admitted in Metro Hospital, Hisar for 20 days and her disability was assessed at 20%, permanent in nature.

3. Learned counsel for the appellant submits that the amount of compensation awarded by the Tribunal is on the lower side. It is submitted that in the accident the appellant suffered fracture of tibia right side with fracture bilateral femur and she is unable to sit and stand and on account of these fractures, her movement has been restricted.

4. Per contra, learned counsel appearing on behalf of the respondents submit that adequate amount of compensation has been awarded by the Tribunal and no interference is called for.

5. I have heard learned counsel for the parties and perused the impugned award.

6. In a judgment rendered in **Raj Kumar Vs. Ajay Kumar and others (SC) 2011 (1) SCC 343**, a formula has been prescribed for assessing compensation to be paid to a claimant who has suffered injuries resulting permanent disability, wherein it has been held that he has to be awarded compensation under the following heads namely:-

“F. Motor Vehicles Act, 1998, Sections 147, 166 and 173- Injury to a person in Motor accident- He is to be awarded compensation under following heads:- Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines,

transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity)”

7. The Tribunal, as already noticed, after scrutiny of the evidence brought on record by the respective parties, awarded a sum of ₹2,70,000/- under various heads. However, the Tribunal did not grant any specific compensation on account of loss of prospect of marriage, as the appellant suffered 20% permanent disability, in view of the judgment rendered in **Raj Kumar's cases (supra)**. Even the amount of compensation payable under other heads such as attendant charges, special diet and transportation deserves to be enhanced.

8. Keeping in view above facts, this Court is of the opinion that the appellant is entitled to specific compensation on account of loss of prospect of marriage and the compensation under others heads, as mentioned above, also deserves to be enhanced, which is reassessed as under:-

Sr. No.	Heads of claim	Amount
1	Compensation on account of loss of earning.	₹ 12,000

Sr. No.	Heads of claim	Amount
2.	Loss of income due to 20% disability	₹ 40,000
3.	Compensation towards attendant charges	₹ 24,000
4.	Compensation towards transportation	₹ 15,000
5.	Compensation for nutritious diet	₹ 20,000
6.	Medical expenses and hospital charges	₹1,45,600
7.	Pain and suffering, including hospitalization of 27 days and for undergoing two operations (as already given by the Tribunal)	₹60,000
8.	Loss of prospect of marriage	₹50,000
9.	Total	₹3,66,600

9. The award of the Tribunal is modified and the total compensation payable to the appellant/claimant shall be ₹3,66,600/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the petition till the date of payment.

13.11.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No