

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

(1)

**FAO No.744 of 2017 (O&M)
Date of Decision: May 13, 2019.**

Ramesh Chand

.....APPELLANT(s).

VERSUS

Jamil and others

.....RESPONDENT(s).

(2)

FAO No.1602 of 2017 (O&M)

Laxmi Devi

.....APPELLANT(s).

VERSUS

Jamil and others

.....RESPONDENT(s).

(3)

FAO No.1804 of 2017 (O&M)

Rekha

.....APPELLANT(s).

VERSUS

Jamil and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Gupta, Advocate
for the appellant (s).

Mr. R.K. Bishamboo, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Mewat (later referred to as the tribunal) vide common award dated 26.09.2016, allowed a compensation of ₹21,100/- to appellant-claimant Ramesh Chand (FAO-744-2017); ₹5,47,000 to appellant-claimant Rekha (FAO-1804-2017); and ₹1,58,000/- to appellant-claimant Laxmi Devi (FAO-1602-2017) for the injuries suffered by them in a motor vehicle accident on 10.12.2014 with Container bearing registration No.HR-74-7336.

As the only issue pressed in these appeals relate to quantum of compensation as awarded by tribunal, detailed facts of the case are being skipped for the sake of brevity.

FAO-744-2017

Learned counsel for the appellant-claimant Ramesh Chand in FAO-744-2017 has argued that the tribunal while awarding the compensation under non-pecuniary heads awarded compensation of ₹5000/- for incidental expenses as well as pain and sufferings besides medical expenses of ₹16,106/-. No compensation for the services of attendant charges, special diet and transportation charges has been allowed by the tribunal.

Learned counsel for the appellant-claimant Laxmi Devi in FAO-1602-2017 has argued that the tribunal while awarding compensation under the non-pecuniary heads, awarded a sum of ₹10,000/- under incidental expenses and pain and suffering. The appellant-claimant remained admitted in hospital from 10.12.2014 to 16.12.2014 and was operated. No compensation has been allowed for services of attendant,

special diet, transportation etc.

Learned counsel for the appellant-claimant Rekha in FAO-1804-2017 has argued that appellant suffered grievous injuries of multiple rib fractures and splenic injury. She remained admitted in hospital from 10.12.2014 to 24.12.2014 and spent an amount of ₹5,57,107/- on her treatment. She also suffered 35% permanent disability on account of post-traumatic painful restriction of movements of right knee, right ankle and right shoulder. Being a housewife, she will require the assistance of some maid servant in the discharge of her household jobs throughout her life. She has also suffered loss of amenities of life but the tribunal has awarded a meagre compensation of ₹50,000/- for her disability of 35% with incidental expenses of ₹20,000/- and another sum of ₹20,000/- towards pain and agony and amenities of life. No compensation was awarded towards expenses of attendant she had to engage during her period of hospitalisation and recovery. No transportation expenses for going to the hospital were allowed.

Learned counsel for respondent-insurance company has argued that the tribunal has allowed compensation for pain and suffering, deprivation of amenities of life and incidental expenses, which include compensation for attendant changes, transportation and special diet etc. and calls for no further enhancement. Regarding the disability of 35% to appellant-claimant Rekha, he has argued that the compensation awarded by the tribunal for disability of appellant is quite reasonable as 35% disability is not functional disability of appellant-Rekha.

FAO-744-2017

Appellant Ramesh Chand remained admitted in hospital from 10.12.2014 to 13.12.2014, when he took discharge on his request. He was provided conservative and symptomatic treatment. In my considered opinion, the compensation of ₹5,000/- awarded towards incidental expenses as well as pain and agony is on lower side and the compensation to which appellant-claimant Ramesh Chand is entitled, is reassessed as follows:-

Sr. No.	Heads	Compensation
(i)	Expenses incurred on medical treatment (as awarded by the tribunal)	₹16106
(ii)	Pain and sufferings	₹15000
(iii)	Transportation charges	₹5000
(iv)	Attendant charges	₹5000
(v)	Special diet	₹5000
	Total	₹46,106/- (rounded off ₹46,100/-).

FAO-1602-2017

This fact has not been disputed that appellant-claimant Laxmi Devi remained admitted in the hospital from 10.12.2014 to 16.12.2014. After operation, she required constant bed rest for considerable long time and for recovery.

Keeping in view the above facts and circumstances, compensation under the non-pecuniary heads is re-assessed as follows:-

Sr. No.	Heads	Compensation
(i)	Expenses incurred on medical treatment (as awarded by the tribunal)	₹147963
(ii)	Pain and sufferings	₹20000
(iii)	Transportation charges	₹10000
(iv)	Attendant charges	₹5000
(v)	Special diet	₹10000

Sr. No.	Heads	Compensation
	Total	₹1,92,963/- (rounded off ₹1,93,000/-).

FAO-1804-2017

Appellant-claimant Rekha remained admitted in Fortis Escorts Hospital, New Delhi from 10.12.2014 to 24.12.2014 and had suffered multiple rib fractures, splenic injury and ICTD insertion was done. She suffered 35% permanent disability due to post-traumatic painful restriction of movement of right knee, right ankle and right shoulder. The appellant is alleged to be a housewife and the aforesaid disability badly affect the discharge of duties by a household lady as she cannot attend to the work in the kitchen because of painful restriction of movement of right knee, ankle and shoulder. She cannot look into the other household jobs like cleaning, washing and upkeep of the house. This is virtually a lifelong disability for her and throughout life, she will require the assistance of some worker for household job. She was provided physiotherapy by the hospital and even after her discharge, she requires constant medical care and physiotherapy. A person, who had suffered fractures requires bed-rest for a period of 8 to 12 weeks or more. During this period, she required the assistance of an attendant to take care of her and her household jobs.

Keeping in view all these facts, I am of the considered opinion that amount of compensation awarded by the tribunal towards her disability, incidental expenses, pain and sufferings, deprivation of amenities of life is inadequate and unreasonable. The compensation for the disability suffered by the appellant is assessed as ₹2,00,000/-. She will also be entitled to compensation of ₹50,000/- towards future medical care, physiotherapy etc.

Under the head of pain and sufferings, she is awarded a compensation of ₹20,000/-. For attendant charges and special diet, she is allowed another sum of ₹20,000/-, as compensation. For going to the hospital for treatment, physiotherapy and as OPD patient, she required transportation for which, she is awarded a compensation of ₹10,000/-. For loss of amenities of life, she is awarded compensation of ₹50,000/- besides medical expenses of ₹4,57,107/-.

The total amount of compensation for which appellant-Rekha is entitled, works out as follows:-

Sr. No.	Heads	Compensation
(i)	Expenses incurred on medical treatment (as awarded by the tribunal)	₹457107
(ii)	Pain and sufferings	₹20000
(iii)	Transportation charges	₹10000
(iv)	Attendant charges	₹10000
(v)	Special diet	₹10000
(vi)	Compensation for permanent disability	₹200000
(vii)	Future medical care and physiotherapy	₹50000
(viii)	Compensation for loss of amenities of life	₹50000
	Total	₹8,07,107/- (rounded off ₹8,07,100/-).

As a sequel of my above discussion, all the aforementioned three appeals have merits and are accepted. Compensation awarded to appellants Ramesh Chand (FAO-744-2017) is enhanced from ₹21,100/- to ₹46,100/-; Laxmi Devi (FAO-1602-2017) is enhanced from ₹1,58,000/- to ₹1,93,000/-; and Rekha (FAO-1804-2017) is enhanced from ₹5,47,000/- to ₹8,07,100/-. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5%

Respondent-insurance company will deposit the amount of enhanced compensation directly in the bank accounts of appellants-claimants or pay the same through demand drafts. The appellants-claimants shall also be entitled to costs of their respective appeals.

May 13, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>