

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O. No.5977 of 2014(O&M)

Date of Decision: 06.12.2019

Kesar Devi

.....Appellant.

Versus

Suraj Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Anshuman Dalal, Advocate
for the appellant.

None for respondents no.1 and 2.

Respondent no.3 proceeded *ex parte* vide order dated
06.10.2015.

Mr. Amit Kundra, Advocate
for respondent no.4-Insurance Company.

LISA GILL, J.

Appellant-claimant seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak, vide impugned award dated 11.04.2013, on account of injuries received by her in the motor vehicle accident which took place on 26.01.2010.

Appellant-claimant, filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of the injuries, which she received in an accident which took place on 26.01.2010, due to the rash and negligent driving of the offending vehicle i.e., car bearing registration no. HR-26-AU-8683, by its driver-respondent no.1.Suraj Singh. FIR No. 87 dated 26.01.2010, under Sections 279 and 337 IPC, Police Station City Rohtak, was registered against respondent no.1-Suraj Singh, in this respect.

Compensation was thus claimed.

Learned Tribunal on considering the facts and circumstances of the case concluded that the injuries were suffered by the claimant in the said motor vehicular accident, which took place on 26.01.2010, due to the rash and negligent driving of the offending car by its driver-respondent no.1- Suraj Singh. Said finding of the learned tribunal has attained finality.

Learned tribunal awarded a sum of ₹19,000/- along with interest @ 6% per annum from the date of filing of the claim petition till realisation of the amount to the claimant. Details of the compensation awarded by the learned tribunal is as hereunder:-

Sr. No.	Heads of Claim	Amount
1.	Medical expenses	₹2000/-
2.	Pain and suffering	₹2000/-
3.	Loss of income due to permanent disability	₹10,000/-
4.	Transportation, attendant charges and special diet	₹5,000/-
	Total	₹19,000/-

Learned counsel for the appellant vehemently argues that meagre compensation has been awarded by the learned tribunal. It is thus prayed that the present appeal be allowed and the compensation awarded to the appellant-claimant be enhanced.

Learned counsel for the respondent no.4-Insurance Company, while refuting the same, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have heard learned counsel for the parties and have gone

through the record with their assistance.

There is no dispute regarding the injuries suffered by the appellant in the motor vehicle accident which took place on 26.01.2010, due to the rash and negligent driving of the offending vehicle by respondent no.- 1-Suraj Singh. The claimant, admittedly suffered mal-united fracture right ankle with mild stiffness of ankle. Disability certificate, Ex.P-3, proves that she suffered 5% permanent disability, on this account.

The claimant, apart from a house wife, claimed to be engaged in tailoring and looking after of a nursery. However, there is no such evidence to substantiate the claimant being engaged in tailoring and looking after the nursery. The appellant has claimed a sum of ₹40,000/- on her treatment, medical expenses, though, no bills etc., have been produced on record on the ground that the same were lost. Due to the nature of injuries, can reasonably be presumed, that the appellant must have spent a sum of ₹5000/- on medical expenses. Therefore, she is entitled to a sum of ₹5000/- instead of ₹2000/- towards medical expenses.

Appellant, is also entitled to a sum of ₹20,000/- instead of ₹2000/- towards pain and suffering. Sum of ₹10,000/- on account of permanent disability, is maintained. However, instead of a consolidated sum of ₹5000/- towards transportation, attendant charges and special diet, appellant is entitled to a sum of ₹8000/- towards attendant charges and ₹5000/- each towards special diet and transportation.

Compensation towards the claimant-Kesar Devi on account of the injuries and disability suffered by her is thus re-worked as under:-

Sr.	Heads of Claim	Amount
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No.		
1.	Medical expenses	₹5,000/-
2.	Pain and suffering	₹20,000/-
3.	Permanent disability	₹10,000/-
4.	Attendant charges	₹8000/-
5.	Special diet	₹5000/-
6.	Transportation charges	₹5000/-
	Grand Total	₹53,000/-

Amount already awarded by the Tribunal to claimant-Kesar Devi, shall stand deducted from the amount of compensation reworked as above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the entire amount from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

06.12.2019

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.

[LISA GILL]

Judge