

**In the High Court of Punjab and Haryana, at Chandigarh**

**F.A.O. No. 784 of 2022 (O&M)**

**Date of Decision: 08.03.2022**

ICICI Lombard General Insurance Company Limited

... Petitioner(s)

Versus

Veerpal Kaur and Another

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Sanjeev Goyal, Advocate  
for the appellant(s).

**Anil Kshetarpal, J.**

1. The insurance company calls into question the correctness of the finding of facts, arrived at by the Motor Accident Claims Tribunal, Tarn Taran (hereinafter referred to as “the Tribunal”).

2. The Tribunal has directed the appellant to pay a sum of ₹12,74,000/- along with the interest @ 7.5% per annum on account of amputation of the right leg of the claimant, who was 19 years old at the time of accident.

3. The learned counsel representing the insurance company does not dispute the correctness of the findings of the Tribunal with regard to the involvement of the vehicle in the accident. The claimant was travelling in an auto-rickshaw, when an Innova car, which was being driven by the respondent No.2-Sumittar Singh, rammed into it. The respondent No.2 did not appear in evidence.

Tribunal has erred while refusing to apportion the liability between the driver of the Innova car as well as the driver of the auto-rickshaw, after recording a finding that it was a case of composite negligence. He further contends that the Tribunal has erred in assessing the amount of compensation.

5. It would be noted here that the Tribunal has awarded a sum of ₹12,74,000/- in the following manner:-

| SR. NO. | HEADS                                                   | CALCULATION  |
|---------|---------------------------------------------------------|--------------|
| 1.      | Medical bills                                           | ₹ 94,000/-   |
| 2.      | Attendant Charges                                       | ₹30,000/-    |
| 3.      | Transportation                                          | ₹20,000/-    |
| 4.      | Special diet                                            | ₹30,000/-    |
| 5.      | Future medical expenses                                 | ₹1,00,000/-  |
| 6.      | Pain and sufferings                                     | ₹1,00,000/-  |
| 7.      | Loss of amenities, enjoyment of life                    | ₹2,00,000/-  |
| 8.      | Damages for physical disability                         | ₹1,00,000/-  |
| 9.      | Compensation on account of effect on marriage prospects | ₹5,00,000/-  |
| 10.     | Loss of income as well as future earning                | ₹1,00,000/-  |
| 11.     | Total                                                   | ₹12,74,000/- |

6. It is not in dispute that a young girl, aged about 19 years, has lost her right leg, which would be a serious life long emotional, mental and physical trauma for her. In these circumstances, there is no merit in the arguments of the learned counsel representing the appellant with respect to the quantum.

7. Undoubtedly, the Tribunal has observed that it is a case of composite negligence as the auto-rickshaw driver had permitted as many as eight passengers to travel in the vehicle. However, as already noticed, the respondent No.2-Sumittar Singh (the driver of the Innova car) has not

appeared in evidence. The insurance company has also not produced any oral evidence to prove that the accident took place due to the contributory negligence. Thus, there is no definite evidence to prove the contributory negligence on the part of the driver of the auto-rickshaw.

8. In view of the above, no ground is made out to interfere. Consequently, the present appeal is dismissed. The amount of ₹25,000/-, deposited by the appellant, be remitted to the Tribunal.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

**(Anil Kshetarpal)**  
**Judge**

**March 08, 2022**

**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No