

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5870 of 2009 (O&M)

Date of Decision:07.09.2022

Kailash

.....Appellant

Versus

Bakhsish Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Dheeraj Narula, Advocate
for the appellant.

None for respondents no.2 and 3.

Mr. Rajbir Singh, Advocate
for respondent no.4.

JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal is seeking enhancement of compensation awarded vide award dated 16.07.2009, passed by Motor Accidents Claims Tribunal, Sirsa (for short "Tribunal"), whereby a sum of Rs.80,000/- along with interest @ 7.5% per annum from the date of filing of the petition has been awarded.

2. Brief facts emerging from the record are that on 20.03.2006, the appellant along with her relatives was waiting at Bus Stand Odhan. A Bus bearing registration No. HR-57-0920 came from Dabwali side and halted there. The appellant tried to board the bus, however, driver suddenly started the bus and the appellant fell down on the road and came under the rear tyre of the bus which resulted into injuries to her. The appellant was shifted from one hospital to another hospital. An FIR No.35 dated 21.03.2006 under Section 279, 337 IPC was registered against driver of the bus.

3. The appellant on account of injuries received by her, filed a petition under Section 166 of Motor Vehicles Act, 1988 (for short '1988 Act'). Learned Tribunal vide award dated 16.07.2009 held the respondents liable to pay compensation to the appellant jointly and severally and awarded a sum of Rs.80,000/- along with interest @ 7.5% per annum from the date of filing of petition till realization of the amount.

4. Learned counsel for the appellant contended that the Tribunal after noticing that there was 15% disability has assessed compensation under different headings as below:-

1. Disability(15%)	: Rs. 43,200/-,
2. Loss of earning (2 months)	: Rs.3000 x 2= Rs.6,000/-
3. Misc. expenses (8 days of hospitalization):	Rs.4,000/-
4. Pain and suffering	: Rs.9,000/-
5. Medical bills	: Rs.18,000/-

The amount determined is a meager amount whereas learned Tribunal should have awarded a sum of Rs.5,00,000/- in view of the fact that appellant had suffered pain for more than two months, remained in hospital for 08 days and is further suffering from 15% disability.

5. *Per contra*, learned counsel for respondent no.4 though did not dispute the claim of appellant that compensation should be enhanced, however, pleaded that appellant is not entitled to compensation of Rs.5,00,000/-. He further submitted that he leaves to this Court to determine just and reasonable amount of compensation.

6. I have perused the record and heard the arguments.

7. Indubitably, the appellant had suffered 15% disability, she had remained in hospital for 8 days and further suffered pain for a period of two months. The respondent is not disputing these facts.

8. Keeping in view the facts and circumstances of the case, judgments delivered by different High Courts as well as Hon'ble Supreme

Court, I am of the considered opinion that amount of compensation must be just, fair and reasonable. The appellant is suffering from 15% disability, thus, it would be appropriate to enhance amount of compensation to Rs. 1,50,000/-. Accordingly, I order to enhance the amount of compensation from Rs.80,000/- to Rs.1,50,000/-. I do not find it appropriate to bifurcate total sum awarded under different headings.

9. The appellant would be entitled to interest at the rate as awarded by learned Tribunal from the date of filing of the claim petition. The respondents are directed to make payment within eight weeks from receipt of certified copy of this order .

Appeal is accordingly disposed of.

(JAGMOHAN BANSAL)
JUDGE

September 07, 2022
rekha sharma

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