

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

399

FAO-5949-2011

Date of Decision: 19.09.2022

Mansi Devi

---Appellant

versus

Jagdish Chander and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ankit Aggarwal, Advocate for
Mr. Pankaj Bali, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal is seeking enhancement of compensation awarded vide award dated 18.04.2011 passed by Motor Accident Claims Tribunal, Karnal (for short 'Tribunal') whereby Tribunal has awarded a sum of Rs.1,24,000/- along with interest @ 7½ % per annum from the date of filing of the claim petition.

2. The facts emerging from record and necessary for the adjudication of present appeal are that on 23.03.2009, the appellant along with her maternal grandson Sunil Kumar and her daughter Sona Devi was coming to Karnal on motorcycle bearing registration No.HR-05G-8309. The motorcycle met with an accident with a car

bearing registration No.HR-05L-1525. In the accident, appellant sustained multiple injuries and she remained hospitalised from 23.03.2009 to 28.04.2009 and thereafter 29.05.2009 to 24.06.2009. The appellant suffered 47% permanent disability. The appellant filed a petition under Section 166 and 140 of Motor Vehicles Act, 1988 (for short, '1988 Act') seeking compensation on account of injuries suffered by her. The Tribunal vide order dated 18.04.2011 has awarded a sum of Rs1,24,000/- under following heads :-

For 47% disability	Rs.94,000/-
For medical treatment etc.	Rs.30,000/-
Total	Rs.1,24,000/-

3. Learned counsel for the appellant contended that no compensation has been awarded on account of special diet, attendant, transportation, pain and sufferings. He further stated that appellant has incurred a sum of Rs.70,000/- for medical expenses whereas the Tribunal has awarded only a sum of Rs.30,000/-. He further submitted that the Tribunal has wrongly awarded a sum of Rs.94,000/- under heading disability which should be as per judgment of Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121**

4. Per contra, learned counsel for the respondent-insurer contended that the Tribunal has rightly awarded a sum of Rs.1,24,000/-. There is no evidence on record to indicate the income of appellant, thus, the Tribunal treating the appellant as housewife has rightly awarded a sum of Rs.94,000/- under heading disability.

The appellant failed to submit concrete evidence of expenses on account of medical treatment, thus, she has been rightly awarded a sum of Rs.30,000/- towards medical expenses.

5. I have perused the record and heard arguments of both sides.

6. The conceded position emerging from record is that the appellant had suffered permanent disability to the extent of 47%. The appellant remained hospitalised from 23.03.2009 to 28.04.2009 and thereafter 29.05.2009 to 24.06.2009. The Tribunal has treated appellant as a housewife. Learned counsel for the respondent-Insurer conceded that amount of compensation deserves to be re-calculated in view of a five-Judge Bench judgment of **Hon'ble Supreme Court in National Insurance Company vs. Pranay Sethi and others 2017 (16) SCC 680** and a three-Judge Bench judgment of Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121**

7. I am of the considered opinion that in view of abovesaid judgments, the amount of compensation deserves to be re-calculated. If income of appellant is conceded Rs.3,000/- per month and multiplier of 7 is applied, the appellant is entitled to compensation amounting to approximately Rs.1,25,000/- on account of permanent disability. It is apt to mention here that income of Rs.3,000/- per month in any way is minimum income and multiplier of 7 is also the minimum multiplier prescribed under the Act.

8. Considering the totality of facts and circumstances and

consent of both sides, I feel it appropriate to enhance the amount of compensation under permanent disability from Rs.94,000/- to Rs.1,25,000/-. No compensation has been awarded under heading pain and suffering which as per my considered opinion ought to have been granted. I order to grant compensation under heading pain and suffering especially keeping in mind that the appellant had remained hospitalised on two occasions i.e. from 23.03.2009 to 28.04.2009 and thereafter 29.05.2009 to 24.06.2009. A sum of Rs.50,000/- is awarded towards pain and suffering. Accordingly, amount of compensation is re-determined as below :-

Heads	Amount of compensation (in Rs.)
Permanent disability	1,25,000
Medical expenses	30,000/-
Pain and suffering	50000
Total	2,05,000

9. The appellant is entitled to interest at the rate as awarded by learned Tribunal. It is made clear that amount already paid would be deducted from claim determined hereinabove.

10. The respondent-Insurer is directed to make payment within a period of eight weeks from today.

11. The appeal is disposed of in the above-stated terms.

12. Before parting with this order, it would be appropriate to observe that during the course of arguments, it transpired that there were two injured before the learned Tribunal and compensation was awarded to both of them. However, appeal of only one claimant i.e.

Mansi is listed before the Court. On being asked by this Court, learned counsels for the parties submitted that as per their information and knowledge, there is no appeal by or on behalf of Sona Devi who was 2nd injured lady.

(JAGMOHAN BANSAL)
JUDGE

19.09.2022
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No