

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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FAO No.5497-2015(O & M)  
Date of Decision : 25.04.2022

Amandeep Kaur

...Appellant

Versus

Om Parkash and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present : Mr.Kulbhushan Raheja, Advocate  
for the appellant

Mr.Punit Jain, Advocate  
for the Insurance Company

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**ANIL KSHETARPAL, J (ORAL):**

The injured has filed this appeal, claiming enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Sangrur (for short, “the Tribunal”).

The Tribunal has awarded the amount of Rs.2,94,375/- under the following heads:

|                              |               |
|------------------------------|---------------|
| The expenditure on treatment | Rs.82,375/-   |
| Pain and sufferings          | Rs.50,000/-   |
| Special diet and attendant   | Rs.20,000/-   |
| Loss of income               | Rs.72,000/-   |
| Travelling expenses          | Rs.20,000/-   |
| Future treatment             | Rs.50,000/-   |
| Total:                       | Rs.2,94,375/- |

It is the case of the claimant that on 01.08.2012, when she along with her minor daughter and minor son was going to Patiala for celebrating Rakhi festival on her TVS Wego Scooty bearing registration No.PB-13Y-0634, a transportation truck trola bearing registration No.RJ-

07-GC-0771, came from backside and overtook her. Thereafter, the driver of truck suddenly applied brakes without giving any signal and she suffered grievous injuries on her face, nasal bone and maxilla bone.

In order to prove her case, she apart from examining herself, examined Dr.Harish Sood as CW-7. The statement of Dr.Harish Sood has been noticed by the Tribunal in the following manner:

*“Dr.Harish Sood has been examined as CW-7 who stated that claimant had post traumatic deformity loss and lip. She complained obstructed breathing and nose was depressed on the bridge. Operation of deformity lip and nose was done. He further stated that further improvement is possible from some higher center and operation would cost Rs. 1 lakh to Rs.2 lakhs approximately in the super speciality hospital.”*

Heard learned counsel representing the parties at length and with their able assistance perused the paper book as well as record of the courts below, which was requisitioned.

Learned counsel representing the appellant contends that the appellant was enrolled as an advocate with the Bar Council after completing her studies in the year 2010. The Vice President of the Bar Association had appeared in evidence to prove that she was a practising advocate apart from being a regular member of the District Bar Association Sangrur. The Vice President further stated that she was earning Rs.20,000/- per month.

He further submits that the Tribunal has awarded a sum of Rs.50,000/- for future treatment while overlooking the deposition of the doctor, which has gone un rebutted.

Per contra, learned counsel representing the Insurance Company has stated that no evidence has been produced to prove her income and therefore the Award passed by the Tribunal is correct.

The accident in question took place on 01.08.2012. the claimant is a widow having two minor children. She was a practising advocate at the relevant time. Hence, the income assessed by the Court @ Rs.6000/- per month is erroneous. The Tribunal has assessed the income below the minimum wages fixed by the State for an unskilled worker (labourer).

In the considered view of the Court, the Tribunal has taken a very conservative view of the matter. Undoubtedly, the appellant did not produce evidence of any case that was handled by her, just because of that reason, the Court should not have lost sight of the fact that she was practising as an advocate for the last two years.

Keeping in view the statement of the claimant is corroborated by the deposition of the Vice President of the District Bar Association, the Court should have taken a pragmatic view of the matter. No doubt, except oral statements,, there is no documentary evidence to prove the income of the appellant. She is practising at the District Courts Sangrur, which is a District Headquarter. In such circumstances, the Tribunal should have assessed the income @Rs.15,000/- per month.

Furthermore, on account of the future medical treatment, the Court has only awarded Rs.50,000/- despite the statement of the doctor, who has appeared as CW-7. The appellant had suffered the deformity of her nose as well as her lips. It has been specifically stated by the doctor that further improvement is possible if she undergoes another surgery from a Super Speciality hospital. An injured/victim is entitled to the proper treatment from a good hospital, so as to carry on life normally.

Keeping in view the aforesaid facts, the amount of compensation is re-assessed as under:

|                              |                          |
|------------------------------|--------------------------|
| The expenditure on treatment | Rs.82,375/-              |
| Pain and sufferings          | Rs.50,000/-              |
| Special diet and attendant   | Rs.20,000/-              |
| Loss of income               | Rs.15000 x 12=1,80,000/- |
| Travelling expenses          | Rs.20,000/-              |
| Future treatment             | Rs.2,00,000/-            |
| Total:                       | Rs.5,52,375/-            |

The increased amount shall carry interest @7.5% from the date of filing of the petition till its realization.

The appeal stands disposed of accordingly.

(ANIL KSHETARPAL)  
JUDGE

25.04.2022  
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Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No