

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

235

FAO-1866-1993

Date of decision: 12.12.2023

Saroj Mehta

.....Appellant

Versus

M/s Punjab Agro Rice Bran Extraction Ltd. and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellant.

Mr. Deepak Suri, Advocate
for the Insurance Company.

AMAN CHAUDHARY, J.

1. Injured-appellant has filed the present appeal seeking enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') vide award dated 27.04.1991, on account of the injuries received by her in a motor vehicular accident.
2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for the last more than 30 years, the counsel for the respondent has no objection, in case the same is decided on basis of the available record.
3. It is stated in the grounds of appeal that the injured-appellant had met with an accident on 01.03.1991, wherein she had suffered multiple injuries including fracture of shaft femur left side and fracture on both bones of right leg, on account of which she suffered permanent disability to the extent of 26%. She remained admitted in the hospital for about 3 months.

The appellant had to visit the hospital for follow up treatment. At the time of the accident, she was 33 years old. The compensation awarded under other heads is also on a lower side.

4. On the other hand, the learned counsel for respondent No.2-insurance company has opposed the present appeal with vehemence by stating that just and reasonable compensation has already been awarded to the appellant, which requires no enhancement.

5. Heard and perused.

6. To proceed further, it would be worthwhile to refer to the judgment in **Sidram vs. Divisional Manager, United India Insurance Co. Ltd. and another**, 2023(1) RCR (Civil) 44, wherein Hon'ble the Supreme Court observed that, "This Court has emphasised time and again that "just compensation" should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives." Further, while allowing the appeal the compensation was enhanced by taking into consideration the following:

"56. The evidence on record indicates that the appellant suffered paraplegia due to the accident. Paraplegia is a form of paralysis of lower body. It restricts everyday routine more particularly the physical activity and leads to (i) deprivation of simple pleasures and amenities of life, (ii) 100% loss of earning capacity, (iii) long term secondary complications requiring continuous care, medical treatment and hospitalization, (iv) feeling of

helplessness, depression, anger, stress, anxiety, etc. In short, paraplegia impairs physical, mental and psychological health and has devastating impact on the social and financial well being of the victim.

57. In the case on hand, the appellant was in the business of selling utensils and used to travel to various villages to sell the same. With this disability in the form of paraplegia being suffered by the appellant, it is not possible for him now to walk a long distance or stand for a long period. His business could be said to have been gravely impacted. Further, the appellant at the time of accident was just 19 years old...”

 X_x

XX

XX

112. The total compensation awarded by us under different heads is as under:

- | | | |
|-----|-----------------------------------|-----------------|
| 1. | Loss of earning due to disability | :Rs.7,77,600/- |
| 2. | Loss of earning for 6 months: | Rs.48000/- |
| 3. | Medical expenses | Rs.1,55,000/- |
| 4. | Future medical expenses | Rs.2,16,000/- |
| 5. | Attendant charges | Rs.4,32,000/- |
| 6. | Litigation charges | Rs.50,000/- |
| 7. | Loss of conveyance | Rs.50,000/- |
| 8. | Pain and suffering | Rs.1,00,000/- |
| 9. | Marriage prospects | Rs.3,00,000/- |
| 10. | Loss of amenities | Rs.50,000/- |
| | Total | Rs.21,78,000/-” |

7. Hon'ble the Supreme Court in **Mohd. Sabeer @ Shabir Hussain vs. Regional Manager, UP State Road Transport Corporation** 2023(1) RCR (Civil) 349, wherein the permanent disability had been caused to the claimant, a 37 year old man, as his right lower limb had been hindering his mobility proving functional disability severely impacting his earning capacity and having to use prosthetic limb, awarded Rs.38,70,120/- (including Rs.2,00,000/- for pain and suffering, Rs.15000/- special diet, Rs.2,00,000/- loss of amenities of life) by observing that it is a well settled position of law that in cases of permanent disablement caused by a motor accident, the claimant is entitled to not just future loss of income, but also future prospects. It has been reiterated by this Court in multiple instances that “just compensation” must be interpreted in such a manner as to place

the claimant in the same position as he was before the accident took place.

8. Moving to the present case, there is no dispute with regard to the accident in which the appellant had suffered multiple injuries. So far as the fact of accident and manner of its taking place, as well as liability fastened upon the company and insurer of the offending vehicle, to be joint and several are concerned, it is pertinent to mention that no challenge to the Award has been made and thus, this issue does not warrant any further examination. The appellant remained hospitalised for about 03 months. She suffered multiple injuries including fracture of shaft femur left side and of both bones of right leg, on account of which she suffered a permanent disability to the extent of 26%. The Tribunal had awarded a sum of Rs.43,100/- to the appellant.

9. Keeping in view the peculiarity of facts and circumstances in light of the aforesaid dictum of law, this Court finds that for the ends of justice to be adequately met, the amount of compensation awarded to the appellant is required to be enhanced thus:

1. Pain and suffering : Rs.50,000/-
2. Medical treatment and follow up : Rs.50,000/-
3. Attendant, special diet, conveyance charges : Rs.25,000/-
4. Loss of amenities/enjoyment of life : Rs. 35,000/-
5. For physical disability to the extent of 26% : Rs.52,000/-

10. Accordingly, the enhanced amount of compensation of Rs.1,68,900/- over and above the amount of Rs.43,100/- already awarded by the Tribunal, alongwith interest @ 7.5% per annum shall be paid to the claimant-appellant within a period of two months from the date of receipt of a certified copy of this judgment, failing which, the amount shall accrue an interest at the rate as already awarded by the Tribunal.

11. Modifying the award to the aforesaid extent, the present appeal is disposed of.

12. Registry is directed to send a copy of the judgment to the concerned Tribunal for necessary compliance.

(AMAN CHAUDHARY)
JUDGE

12.12.2023
Hemant

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