

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

FAO-4739-2012(O&M)

Date of decision:-2.2.2023

Smt.Usha Nanchahal

...Appellant

Versus

Narata Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Inderjit Sharma, Advocate
for the appellant.

Mr.Neeraj Khanna, Advocate
for the respondent No.3.

H.S. MADAAN, J.

CM-20766-CII-2012

For the reasons mentioned in the application, the same is
allowed and delay of 102 days in filing of the appeal stands condoned.

FAO-4739-2012(O&M)

1. Petitioner/claimant Smt.Usha Nanchahal wife of Sh.Krishan
Gopal, aged about 54 years, resident of House No.619, Sector 4,
Panchkula had suffered injuries in a motor vehicular accident, which took
place on 14.4.2007 statedly on account of rash and negligent driving of
truck bearing registration No.HR-46-3499 (hereinafter referred to as the
offending truck) by respondent No.1 Narata Singh. As a matter of fact the
petitioner/claimant was going from Panchkula to Chandigarh by pillion

riding Kinetic Honda scooter driven by Ms.Tripta Seth at a moderate speed and while they had reached near CTU Turn, Ms.Tripta Seth had stopped the scooter, then the offending truck came from behind and struck against the scooter; resultantly both the riders fell down. Left foot of the petitioner/claimant got crushed under front tyre of the truck. She was taken to PGI, Chandigarh, where she underwent a surgery and her left leg above the knee was amputated. An FIR regarding the accident was got registered.

2. The petitioner/claimant had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) against Narata Singh – driver, Gurdev Singh – owner and Oriental Insurance Company Ltd. - insurer of the offending truck before Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as the Tribunal), pleading that she had spent a sum of Rs.1,50,000/- on her treatment and that she was a housewife rendering services to the tune of Rs.5,000/- per month to her family.

3. On getting notice, all the three respondents had appeared and offered a contest.

4. Respondents No.1 and 2 had filed a joint written statement pleading that a false story has been set up by the petitioner/claimant and a wrong FIR had been got registered against respondent No.1. They prayed for dismissal of the claim petition.

Subsequently respondents No.1 and 2 absented from the proceedings before the Tribunal on 19.11.2010 and were proceeded against ex-parte.

5. Whereas respondent No.3 insurance company in the written statement filed by it had vehemently denied the allegations raising various legal objections.

6. From the pleadings of the parties, following issues were framed:

1. Whether the accident in question in which injuries were suffered by the petitioner, was caused because of rash and negligent driving of Truck No.HR-46-3499 by the respondent No.1? OPP.
2. If issue No.1 is proved, whether the petitioner is entitled to compensation, if so, to what amount and from whom? OPP.
3. Whether the vehicle in question was being driven by respondent No.1 without valid and effective driving licence in violation of the terms and conditions of insurance policy? OPR-3.
4. Relief.

7. The parties were afforded adequate opportunities to lead their evidence in support of their respective claims.

8. After hearing arguments, the Tribunal decided issue No.1 in favour of the petitioner/claimant against the respondents holding that respondent No.1 Narata Singh had caused the accident in which the petitioner/claimant had suffered injuries on account of rash and negligent driving of the truck, as such the petitioner/claimant was found to be entitled to get compensation and Narata Singh – driver, Gurdev Singh – owner and Oriental Insurance Company Ltd., Chandigarh – insurer of the offending truck were held liable to pay compensation. The compensation was calculated as under:

(i)	Annual amount spent on treatment and purchase of medicines	Rs.2,28,673/-
(ii)	Loss of future earning	Rs.2,31,000/-
(iii)	Pain and suffering	Rs.25,000/-
(iv)	Transportation of 20 Trips @ Rs.500/- per day.	Rs.10,000/-
(v)	Attendant charges @ Rs.3,000/- per month for 6 months	Rs.18,000/-
(vi)	Special died	Rs.20,000/-
	Total	RS.5,32,673/-

9. In that way, the Tribunal allowed the claim petition vide award dated 21.1.2012 and awarded compensation of Rs.5,32,673/- to the claimant along with interest @ 6% per annum from the date of filing of the petition till realization, payable by insurance company first, however recovery rights were given to the insurance company to recover the same from respondents No.1 and 2.

10. Feeling that the compensation awarded to her was on lower side, the claimant has filed the present appeal seeking enhancement of compensation, notice of which was given to respondents. Respondent No.3 – insurance company appeared through counsel.

11. I have heard learned counsel for the parties besides going through the record.

12. The Tribunal has awarded a sum of Rs.2,28,673/- to the petitioner/claimant on the basis of bills and receipts produced. But then it is not possible to keep record of each and every penny spent on medical treatment or to get bills/receipts on account of purchase of medicines for comparatively small amount for undergoing tests or for purchasing any medical equipment for the treatment of the injured. In my considered view

this figure needs to be enhanced to **Rs.3,00,000/-**.

13. On account of loss of future earning, the Tribunal has awarded a sum of Rs.2,31,000/-. However, I find this amount to be on lower side for the reason that with 75% disability on account of amputation of left leg above knee, she would not be able to do the household chores, which she was expected to perform being a housewife and it would be difficult for her to perform her personal work. She has led evidence to show that she has hired a maid servant to do the household work. The Tribunal has quantified the efforts put in by the petitioner/claimant as Rs.3,500/- considering the minimum wages payable to a labourer at the relevant time to be Rs.3,000/-. In my view this approach of the Tribunal was not proper. A housewife has a very important role to play in the family and the efforts and services put in by her in maintaining the home, running the kitchen, looking after other family members cannot be under estimated. Therefore, in my considered view, an amount of Rs.5,000/- per month would be appropriate to be taken towards such services rendered. With such disability having been occurred, the petitioner would no longer be able to render such services. The amount awarded under the loss of future earning, which could be taken as future services amount deserves to be enhanced to **Rs.5,00,000/-**.

14. Whereas amount awarded under the head pain and suffering as Rs.25,000/-, Transportation Rs.10,000/- and special diet Rs.20,000/- also needs to be increased and the same needs to be increased. I award a sum of **Rs.50,000/-** towards pain and suffering and **Rs.25,000/-** each towards transportation and special diet.

15. The Tribunal has rightly awarded **Rs.18,000/-** towards attendant charges. The same is kept intact.

16. The Tribunal has not awarded any compensation towards future medical expenses. The petitioner/claimant may be required to have an artificial leg to enable her to increase her movements. I award a sum of **Rs.1,00,000/-** under that head.

17. No amount has been awarded under the head loss of future amenities and happiness. I award a sum of **Rs.1,00,000/-** to the petitioner/claimant under that head.

18. Thus, the total compensation comes out to Rs.11,18,000/-.

19. The Tribunal has awarded compensation of Rs.5,32,673/-.

20. In this way, the enhanced amount comes out to Rs.5,85,327/- (11,18,000 – 5,32,673). The amount is rounded off to Rs.5,85,500/-. The claimant would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization of the amount. The other terms and conditions given in the relief clause of the impugned award shall apply to the enhanced amount as well.

21. With such modification, the appeal is allowed partly with costs.

Since the main appeal stands partly allowed, the miscellaneous application(s), if any, stand disposed of accordingly.

2.2.2023

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)
JUDGE