

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

103

FAO-5828-2012

Date of decision: 13.07.2023

SANTOSH

..Appellant

Versus

RAJENDER &amp; ORS.

..Respondents

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

Present: Mr. Kulwant Singh Dhanora, Advocate  
for the appellant.

Mr. Sandeep Goyat, Advocate  
for the respondent No.1.

Mr. D.K. Dogra, Advocate  
for respondent no.3.

**ANIL KSHETARPAL, J(Oral)**

1. This appeal has been filed challenging the correctness of the award, passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, by the Motor Accidents Claims Tribunal at Hisar (hereinafter referred to as “the Tribunal”) on 15.05.2012 with regard to the assessment of the amount of compensation. In other words, the involvement of two motorcycles bearing registration No.HR-20L-6509 and HR-20K-5871, respectively, and the correctness of the finding with regard to rash and negligent driving by the driver of the motorcycle bearing registration plate No.HR-20K-5871, are not in dispute.

2. The accident took place on 03.04.2008. The appellant is stated to have suffered permanent disability to the extent of 37%.

3. The Tribunal has awarded the compensation under the following heads:-

|       |                          |                      |
|-------|--------------------------|----------------------|
| (i)   | Permanent disability 37% | Rs.74,000/-          |
| (ii)  | Bills Ex.P8 to P23       | Rs.35,440/-          |
| (iii) | Pain and suffering       | Rs.20,000/-          |
| (iv)  | Special diet             | Rs.10,000/-          |
|       | <b>Total</b>             | <b>Rs.1,39,440/-</b> |

4. The learned counsel representing the appellant contends that the appellant suffered fracture on head and other injuries resulting in her hospitalization for a period of 17 days. She was earning Rs.6,000/- per month from tailoring and stitching but after the accident, she was unable to earn on account of serious injuries. It has been submitted that no amount has been awarded towards the attendant and the amount awarded under the heads of disability, pain and suffering and special diet is also inadequate.

5. On the other hand, the learned counsel representing the Insurance Company contends that the Tribunal has awarded appropriate amount, which needs no modification.

6. It is apparent that the Tribunal has calculated the amount of compensation on account of disability by calculating Rs.2,000/- for each percentage of disability. No doubt that at one point of time, this was considered adequate, however, with the passage of time this formula cannot be universally applied. Permanent disability to the extent of 37% is significant particularly when the major injuries suffered is relating to hip, which is an important organ in the body for moving from one place to another.

7. The appellant was barely 35 years of age at the time of accident. She will have to live a crippled life.

8.                   Consequently, the amount of compensation is re-calculated as under:-

|       |                          |               |
|-------|--------------------------|---------------|
| (i)   | Permanent disability 37% | Rs.1,00,000/- |
| (ii)  | Bills Ex.P8 to P23       | Rs.35,440/-   |
| (iii) | Pain and suffering       | Rs.40,000/-   |
| (iv)  | Special diet             | Rs.20,000/-   |
| (v)   | Charges of attendant     | Rs.40,000/-   |
|       | <b>Total</b>             | Rs.2,35,440/- |

9.                   The enhanced compensation shall be payable along with the interest at the rate of 7.5% from the date of filing of the claim petition till its realization.

10.                  Disposed of accordingly.

11.                  All the pending miscellaneous applications, if any, are also disposed of.

July 13<sup>th</sup>, 2023

(ANIL KSHETARPAL)  
JUDGE

Ay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No