

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

FAO No. 1711 of 2015

DATE OF DECISION :- July 12, 2023

Sudesh Kumari

...Appellant

Versus

New India Assurance Company Limited and others ...Respondents

FAO No. 1712 of 2015

Dhananjay

...Appellant

Versus

New India Assurance Company Limited and others ...Respondents

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

Present:- Mr. Surinder Gaur, Advocate for the appellant(s).

Mr. Vinod Gupta, Advocate
for respondent No. 1-Insurance Company.

Ms. Promila Nain, Advocate
with Ms. Harveen Mehta, Advocate
for respondents No. 2 and 3.

1. My this order shall dispose of two appeals bearing FAO No. 1711 of 2015 filed by Sudesh Kumari and FAO No. 1712 of 2015 filed by Dhananjay.

2. Briefly stated the facts of the case are that on 23.6.2013 at about 1.00 P.M., Dhananjay, aged about 21 years and Sudesh Kumari, aged about 46 years had suffered injuries in a motor vehicular accident, which took

place in the area of near a Hotel at Bahadurgarh within jurisdiction of Police Station Sampla, District Rohtak, statedly on account of rash and negligent driving of a Car bearing Registration No. GJ-18AM-4693 by respondent No.1 Rinku Singh Sehrawat.

3. Both the injured were hospitalized and treated. They had suffered permanent disability as a result of suffering injuries in the accident. Both of them filed separate claim petitions seeking compensation on account of receiving injuries in a motor vehicular accident. Both the claim petitions were tried together having arisen out of the same accident. After contest, the claim petitioners were accepted vide a common Award dated 9.9.2014 and Sudesh Kumari was awarded compensation of Rs.3,50,000/- whereas Dhananjay was awarded compensation of Rs.2,60,000/- payable with interest at the rate of 7.5% per annum from the date of filing of claim petitions till actual realization by all the three respondents jointly and severally.

4. The petitioners claimants found the compensation so awarded to be on the lower side and have filed the present appeals, notice of which was given to the respondents who have put in appearance through counsel. Both the appeals having arisen out of the same Award are being taken up together for decision.

5. Firstly taking up the appeal filed by appellant Sudesh Kumari bearing FAO No. 1711 of 2015, she happens to be a house wife, aged about 46 years and had suffered permanent disability of 52% on account of mal-united Acetabulum fracture right side in the right leg, as per disability certificate Ex.PW/1B issued by Medical Board of General Hospital, Rohtak.

The Tribunal has awarded her an amount of Rs.2,50,000/- as medical

expenses including expenses incurred on transportation and special diet whereas a sum of Rs.1 lakh was awarded under the Head pain and sufferings. Thus total amount of Rs.3,50,000/- was awarded.

6. However, I find that the Tribunal has awarded insufficient amount to the petitioner claimant Sudesh Kumari. The petitioner claimant happen to be a house wife. The services rendered by her to the family in doing house hold work including cooking, washing utensils, clothes and doing other ancillary works cannot be underestimated. Though the efforts put in by a house wife are difficult to be quantified in terms of money but for the purpose of calculation of compensation, I quantify the amount as Rs.5,000/- per month. Since she has suffered permanent disability of 52% in a particular limb and not qua the entire body, taking the functional disability to be 30% the reduction in the services is worked out to be Rs.1500/- per month. The total reduction in services is thus worked out as Rs.1500 x 12=Rs.18000/- per annum.

7. Considering her age multiplier of Rs.13 is applied and total amount comes out to be Rs.2,34,000/-(18000 x 13).

8. Under the Head medical expenditure an amount of Rs.2,50,000/- has been awarded by the Tribunal, which considering the evidence adduced on the record in the form of bills, vouchers and oral evidence, which amount is found to be sufficient. But the Tribunal fell in error in clubbing the amounts which might have been spent by her on transportation, special diet and the amount paid as attendant charges. Rs.25,000/- each is awarded to her under the said Heads. The amount of Rs.1 lakh awarded by the Tribunal to the petitioner claimant under the Head pain and suffering is found to be adequate.

8. Thus the total compensation is worked out to be Rs.6,59,000/-.

The Tribunal as awarded the amount of Rs.3,50,000/-. It is enhanced by Rs.3,09,000/- (6,59,000- 3,50,000) payable with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization. The liability of the three respondents to pay this amount to be joint and several.

9. The appeal bearing FAO No. 1711 of 2015 filed by Sudesh Kumari is allowed partly in that regard.

10. Coming to the appeal filed by appellant Dhananjay, he was aged about 21 years at the time of suffering injuries in the accident working as a Clerk with a company named M/s Instant Associates Private Limited, New Delhi earning Rs.16,500/- per month and he has suffered permanent disability of 44% on account of Bimalleoli fracture in right hip due to injuries received in the accident. He has been awarded compensation by the Tribunal to the extent of Rs.2,60,000/- as per details below :-

(a) Medical and other expenses	Rs.1,10,000/-
(b) Loss of future prospects	Rs.1,00,000/-
(c) Pain and sufferings	Rs.50,000/-

I find the amount so awarded to be on very lower side. In terms of ratio of judgment '***National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009***' an addition of 50% of the actual salary is to be made towards future prospects where the victim has a permanent job and was below the age of 40 years. Therefore, considering the monthly income of injured to be Rs.16,500/- per month addition of 50% of the amount is to be made. Doing that monthly income of the petitioners claimants is worked out to be Rs.24,750/-(16500+8250) per month. Since the permanent disability was with respect to particular part of the body the

functional disability is taken as 22%. The financial loss in that way is worked out to be Rs.5084/- per month. The annual loss is worked out as Rs.5084 x 12=61,008/-. Considering the age of the victim multiplier of 18 is to be applied. The total loss is thus calculated to Rs.10,98,144.

11. The Tribunal has awarded a sum of Rs.50,000/- under the Head pain and suffering. In my view that amount is inadequate. The same is enhanced to Rs. 1 lakh. The Tribunal has not awarded any separate amount under the Head transportation charges, special diet and attendant charges. A sum of Rs.25,000/- each is awarded to him under those Heads. No amount has been awarded to the claimant under the Head loss of marital prospects. A sum of Rs.1 lakh is awarded to him in that regard. Thus the total amount comes out to be Rs.13,73,144/- The enhancement would be of Rs.11,13,144 (13,73,144-2,60,000) payable with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization. The liability of the three respondents to pay this amount to be joint and several.

12. The appeal bearing FAO No. 1712 of 2015 filed by Dhananjay is allowed partly in that regard.

(H.S. MADAAN)
JUDGE

July 12, 2023
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No