

FAO-201-2017(O&M)

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

**FAO-201-2017 (O&M)
Date of decision : 25.05.2023**

Manpreet Kaur

... Appellant(s)

Versus

Manjinder Singh &Ors.

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Anil Kumar Spehia, Advocate for the appellant.
Mr. Vinod Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

CM-660-CII-2017

This is an application for condonation of delay of 45 days in filing the appeal.

For the reasons stated in the application, delay of 45 days in filing the appeal is condoned. CM stands disposed off.

FAO-201-2017

1. The present appeal has been preferred by the injured claimant-appellant (minor) aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter referred to as 'Tribunal').

2. The factum of the accident is not in dispute and hence the facts are not being adverted to. In the present case the injured claimant-appellant,

as per the statement of Dr. Ravi Kumar Preenja and as per the disability certificate (Ex.P27), had suffered 30% disability in relation to her left lower limb. It has also been affirmed by the doctor that the disability was permanent in nature and the patient may encounter difficulty in cross-leg sitting, squatting, climbing stairs and running. The Tribunal had awarded the following compensation:

I.	Pecuniary damages	
1.	Loss of income	-
2.	Transport to hospital and Diet and nutrition	Rs.10,000/-
3.	Attendant charges	NIL
4.	Medical expenses	Rs.26,956/-
	(i) Cost of medicines	
	(ii) Hospital charges	
	(iii) Consultation charges	
	(iv) Future expenses	
II.	Non pecuniary charges	
5.	Percentage of disability assessed and nature of disability as permanent or temporary.	30% Permanent
	Loss of amenities or loss of expectation of life span on account of disability.	
6.	Pain and suffering	Rs.10,000/-
7.	Loss of prospects of marriage	NIL
III.	Disability resulting in loss of earning capacity	
8.	Percentage of loss of earning capacity in relation to disability	Rs.60,000/-
	Income x% earning capacity x	

no. of months x multiplier.

9. Total Rs.1,06,956/- rounded off **Rs.1,07,000/-**

3. Learned counsel for the injured claimant-appellant would contend that the claimant-appellant in the present case remained admitted in hospital for a period of 30 days and the amount awarded under the head ‘pain and suffering’ is on the lower side. Learned counsel would further contend that no amount has been awarded towards attendant charges, loss of marriage prospects and that the amount awarded under the head ‘transportation, diet and nutrition’ is also on the lower side.

4. *Per contra*, learned counsel for respondent No.3 would contend that sufficient amount of compensation has been awarded to the injured claimant-appellant and there is no scope of any enhancement.

5. Heard.

6. In the present case the injured claimant-appellant was 8 years old at the time of the accident and as per the disability certificate (Ex.P27) she has suffered 30% disability in relation to the left lower limb. Dr. Ravi Kumar Preenja, who appeared as PW-2, had stated that the disability was permanent in nature and the patient may encounter difficulty in cross-leg sitting, squatting, climbing stairs and running. At the same time, he had also stated that the disability has been assessed in relation to the limb and it cannot be presumed that the injured claimant-appellant had become disabled to the extent of 30%. The medical expenses have been paid as per the bills produced by the injured claimant-appellant before the Tribunal. The amount

of Rs.26,956/- awarded under the head ‘medical expenses’ is, hence, maintained. The Tribunal has awarded an amount of Rs.10,000/- towards ‘pain and suffering’ which is on the lower side as also no amount has been awarded towards the attendant charges. Hence, keeping in view the fact that the claimant-appellant was a 8 years’ old child at the time of the accident and remained in hospital for a period of 30 days, the amount awarded towards ‘pain and suffering’ is enhanced to Rs.1,00,000/- and an amount of Rs.5,600/- i.e. the monthly minimum wages at the relevant time, is also awarded towards attendant charges. Further, no amount has been awarded by the Tribunal towards loss of marriage prospects. Keeping in view the statement of the doctor that the patient may encounter difficulty in cross-leg sitting, squatting, climbing stairs and running, an amount of Rs.2,00,000/- is awarded towards loss of prospects of marriage. An amount of Rs.10,000/- has been awarded towards ‘transportation and diet and nutrition’ which is also on the lower side and the same is accordingly enhanced to Rs.20,000/-. Further, the amount awarded towards disability suffered by the injured claimant-appellant is also enhanced from Rs.60,000/- to Rs.1,00,000/-. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Medical Expenses	Rs.26,956/-
2	Pain and suffering	Rs.1,00,000/-
3	Attendant Charges	Rs.5,600/-
4	Loss of marriage prospects	Rs.2,00,000/-
5	Transportation and special diet/nutrition	Rs.20,000/-
6.	Loss of earning capacity in relation to disability	Rs.1,00,000/-

	Total Compensation	Rs.4,52,556/-
	Compensation awarded by the Tribunal	Rs.1,07,000/-
	Enhanced amount	Rs.3,45,556/-

7. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till realization of the entire amount.
8. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

25.05.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO