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

**CM-16939-CII-2014
FAO-6217-2014(O&M)
Date of decision : 27.11.2024**

Murgai

....Appellant

Versus

Shamsher Singh @ Sher Singh @ Bhola & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Ashwani Arora, Advocate
for the applicant-appellant.

None for non-applicants-respondents No.1 & 2.

Mr. R.C.Kapoor, Advocate
for non-applicant-respondent No.3-Ins. Co..

PANKAJ JAIN, J.(ORAL)

CM-16939-CII-2014

This is an application seeking condonation of delay of 68 days
in filing the present appeal.

For the reasons recorded in the application, this Court is
satisfied that the applicant-appellant has shown sufficient cause to condone
the delay in filing the appeal.

Application is allowed. Delay of 68 days in filing the appeal is
condoned.

**Main case**

1 Claimant suffered injuries in a motor vehicular accident. She was working as woman Coolie with the U.T. Administration getting a salary of Rs.7,847/- per month. On account of injuries suffered by her in the accident she suffered 36% permanent physical disability in relation to left lower limb as she has suffered from the restriction of hip mobility. The Tribunal awarded her compensation applying multiplier method. Permanent disability suffered by her was also treated as functional disability.

2 Learned counsel for the appellant relies upon ration of law laid down by Supreme Court in *Chandramma Vs. Manager, Regional Office, NCC Limited & anr., 2023 AIR (Supreme Court) 21* to submit that instead of going by the permanent disability suffered by the claimant, the Tribunal ought to have considered the functional disability. The disablement suffered by her has incapacitated her from doing the work she was capable of doing. Hence, it is a case of total disablement.

3 *Per contra*, learned counsel for respondent No.3-Insurance Company submits that the appellant is in a Government job and still continues to be in employment and thus her functional disability cannot be assessed at 100%.

4 I have heard learned counsel for the parties and have carefully gone through record of the case.

5 So far as the disability of permanent nature suffered by appellant is concerned, the same is not in dispute. It is also not in dispute that the disability relates to lower limb and she has been rendered crippled for whole of her life. Appellant being a lady is a home-maker as well and



has to undertake all the household chores. However in view of the injury suffered in the accident she now stands incapacitated and handicapped. Thus, the Tribunal ought to have assessed the functional disability of the appellant. Supreme Court in the case of **Chandramma's case supra** observed as under :-

“23. Having considered the aforesaid facts of the present case and the dictum of the judicial pronouncements referred to above and the position of the appellant after the accident, incapacitated her from carrying out her vocation as a labourer, we are of the opinion that the impugned order passed by the High Court is not liable to be sustained. The functional disability of the appellant is liable to be assessed as 100% and, accordingly, the compensation is to be determined. The functional disability of the appellant being 100%, her age being 40 years and income being Rs.8000/-, 60% whereof works out to be Rs.4800/- and applying the multiplier of 184.17, as per Schedule IV of the 1993 Act, the compensation works out to be Rs.8,84,016/-. Adding an amount of Rs.42,200/- towards medical expenses for which the bills were presented, the total compensation works out to be Rs.9,26,216/- rounded of to Rs. 9,30,000/-. The appellant shall also be entitled for payment of interest @ 9% per annum, from the date of making the application till the date of actual payment.”

6 Though the counsel for respondent No.3 is right in contending that the appellant continues to be in employment, yet the Court is obligated to assess just compensation payable to the claimant. Thus, keeping in view the ration of law laid down by Supreme Court in **Chandramma's case supra** the functional disability of the appellant is assessed as 80%. The compensation needs to be calculated accordingly. Since she remained in employment nothing is payable on account of future prospects.



She remained bed ridden for almost a year. She is granted Rs.60,000/- under the head of special diet. She is granted Rs.60,000/- for attendant charges. Rs.1.00 lakh is granted for pain and suffering. Rs.20,000/- is granted for transportation and Rs.50,000/- is granted under the head of loss of amenities of life. Appellant shall also be entitled for interest @9% per annum from the date of filing of the petition till the date of actual realization.

7 Impugned award passed by the Tribunal is modified accordingly.

8 Appeal stands disposed off.

27.11.2024
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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