

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO NO.39 of 2024 (O&M)

Date of Order:08.01.2024

Reliance General Insurance Company Limited

.Appellant

Versus

Sabnam and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Kodan, Advocate
for the appellant-Insurance CompanyANIL KSHETARPAL, J

1. The correctness of the award passed by the Motor Accident Claims Tribunal, Nuh (hereinafter referred to as 'the Tribunal') is assailed by the Insurance Company.

2. The Tribunal has assessed that Smt. Sabnam, the injured, is entitled to compensation of Rs.18,00,000/-. The learned counsel representing the Insurance Company does not dispute the occurrence of the accident and the findings of fact arrived at by the Tribunal with regard to the involvement of the vehicle as well as rash and negligent driving on the part of Mr. Umar Mohd., respondent no.2, however, he submits that the Tribunal has erred in assessing the amount of Rs.18,00,000/- payable towards compensation. While relying upon the recent judgment passed by the Supreme Court in T.J.Parameshwarappa @ Parameshwarappa @ J.T. Parameshwarappa @ Talalkena Gowdra Parameshwarappa vs. The Branch Manager, New India Assurance Co. Ltd. And others, 2022 All SCR 2350, he submits that it is not necessary to assess the loss of earning

capacity at the same rate at which the disability has been assessed.

3. This court has considered the submissions of the learned counsel representing the appellant and carefully studied the judgment passed by the Supreme Court in **T.J.Parameshwarappa's case (supra)**.

4. A perusal of the award proves that Smt. Sabnam, aged about 36 years, suffered grievous injuries in the accident. Before the Tribunal, Dr. Naseem Ahmed, Orthopedics Surgeon, Civil Hospital, Mandikhera, was examined. The Tribunal after analysing his deposition has recorded as under:-

“The petitioner has also examined Dr. Naseem Ahmed, Orthopedics Surgeon, Civil Hospital, Mandikhera as PW-4. He has deposed that on 23.02.2022, he along with other members of Medical Board, examined petitioner Sabnam and assessed her disability as 50%, which was on account of post traumatic operated case of fracture of right distal femur with fracture of right proximal tibia with fracture of distal end of right radius with moderate restriction of movements at right knee joint with mild restriction of movements at right wrist with shortening of 3 inches. He has proved the disability certificate as Ex.P1. In the cross-examination, he has clearly stated that practically there is no chance of reduction in percentage of disability.”

5. The Tribunal has awarded a sum of Rs.8,95,000/- towards the respondent's treatment expenses. It has been found that she remained admitted on two different occasions in Anjuman Hospital, Tapukara, District Alwar and also remained admitted in SHKM, Nalhar. Keeping in view the aforesaid facts, the Tribunal awarded Rs.10,000/- towards the transportation charges, Rs.5000/- for special diet and Rs.30,000/- for attendant charges. She was also allowed a sum of Rs.50,000/- towards pain and suffering. Although, the respondent claimed that she was earning Rs.15,000/- per month by doing agricultural work, however, the court assessed her income

in consonance with the minimum wages i.e. Rs.9000/-. It is evident that the respondent suffered permanent disability to the extent of 50% on account of fracture of her right leg and its shortening by 3 inches. The respondent belongs to a poor family. She apart from doing odd jobs, is also a home maker. In view of the injuries suffered by her, movement of her right knee joint and right wrist has also restricted. In these circumstances, the Tribunal has not erred in assessing the compensation after considering that the disability caused to her has deducted her earning capacity to the extent of 50%.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.
7. Dismissed accordingly.
8. All the pending miscellaneous applications, if any, are also disposed of.

January 08, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO