

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

**FAO-2484-2010 (O&M)
Date of Decision: May 13, 2025**

Smt.Kamlesh Devi

...Appellant

VERSUS

Jugnu and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

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

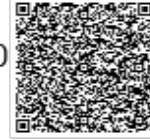
Mr.Naresh Kaushik, Advocate
for respondents No.1 and 2.

Mr.Nigam K. Bhardwaj, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of injuries sustained by her, in a motor vehicular accident.

The accident had taken place on 24.03.2008. At about 6.00 a.m., the claimant along with her nephew Sandeep Kaushik was on regular morning work, a Maruti Zen Estilo car bearing registration No.HR-31D-4243, came from the back side, being driven by respondent No.1, in rash and negligent manner and struck against the claimant, as a result of which, she



sustained multiple injuries.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place on account of rash and negligent driving of the offending car, driven by respondent No.1 and consequently, the appellant-claimant had sustained injuries, in the accident in question.

However, it is pertinent to mention that none of the respondents, upon whom, the liability has been fastened to pay the compensation awarded by learned Tribunal, have assailed the findings. In these circumstances, there is no necessity to further dwell on these aspects. Be it noted that, it is only the appellant-claimant, who had sought enhancement of the compensation.

At the very outset, learned counsel for the appellant had submitted that the medical evidence, brought on record, has not been properly appraised. Even, compensation on various counts, have been given amiss, while 'work on' of the compensation and otherwise also, the extent of compensation awarded on various counts, also do call for enhancement. Thus, learned counsel for the appellant has made a prayer for extensive enhancement of the compensation, as awarded by the Tribunal.

On the other hand, learned counsel for the respondents have refuted the claim of the appellant-claimant, while asserting that no satisfactory evidence, has been led to seek compensation, as now impressed upon. Thus, he submits that the appeal sans merit and deserve to be dismissed.

Considering the submissions aforesaid, it is pertinent to mention that it goes without saying that in the matters of determination of



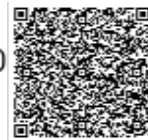
compensation, the Tribunals/Courts are statutorily bound with the responsibility of fixing '**just compensation**'. It is obviously true that determination of 'just' compensation, cannot be equated to a bonanza, but simultaneously, the same should not be a niggardly amount. However, the concept of '**just compensation**' obviously suggest application of fair and equitable principles and reasonable approach, on the part of Tribunals/Courts. This reasonableness, on the part of the Tribunals/Courts must be on larger peripheral fields.

Suffice to make reference to *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, wherein, the Hon'ble Supreme Court held that the '**just**' compensation is adequate compensation and the Award must be just that- '**no less and no more**'.

The Courts should be mindful of the fact that though, the physical disability may be on the lesser count, but however, the functional disability, on account of injury sustained, can be on higher side. The extent of economic loss, arising from a disability, may not be always measured in proportions, to the extent of disability. Anyway, the efforts always should be of the Courts, to substantially ameliorate the misery of the claimant and recognize his/her actual needs, by accounting for the ground realities. However, the measures should be in correct proportion.

In the case in hand, while considering the evidence, brought on record, learned Tribunal had awarded compensation, which in tabular form, is herein reproduced:-

| | | |
|-------------------------------------|---|---------------|
| Medical expenses | : | Rs.1,58,000/- |
| Disability to the extent of 15% | : | Rs.30,000/- |
| Pain and suffering and special diet | : | Rs.25,000/- |

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| | | |
|----------------|---|---------------|
| Transportation | : | Rs.8,000/- |
| Total | : | Rs.2,21,000/- |

However, the compensation aforesaid, do call for re-computation.

So far as, the medical bills are concerned, learned Tribunal had considered the bills of the expenditure incurred on the treatment, brought on record and has awarded amount of Rs.1,57,524/, which was rounded off as Rs.1,58,000/-.

Also, in view of the testimony of claimant herself, when she stepped into witness box as PW-6 as well as considering the testimony of PW-4 Alie Masih, Senior Medical Record Technician, Sir Ganga Ram Hospital, it stands proved about the claimant to have been admitted on 24.03.2008 and having discharged on 31.03.2008.

Even, PW-5 Dr.Sarabjit Singh Sachdeva, Orthopedic Surgeon, Sir Ganga Ram Hospital, on the basis of the record, has deposed that claimant had fracture distal 1/3rd both bone right leg with fracture metaphysis right tibia with fracture scapula left with head injury and further also deposed about the treatment having extended to the claimant by the various other doctors. He also deposed that right leg of the claimant was operated upon and expert A-O Tibial nail was inserted. He also proved the bills of expenditure. The discharge summary of the claimant, coming on record, also proves about the kind of injuries suffered by the claimant, as deposed by PW-5. Therein, it was also stated that closed reduction and internal fixation with A.O. Expert tibial nail was done on 26.03.2008. The claimant herself has also deposed to this effect.



PW-7 Dr.Satish Kumar Verma, Medical Officer, General Hospital, Jind has deposed about his being member of the board, who had examined claimant Kamlesh Devi for the purpose of issuance of the disability certificate. He further deposed that on examination, the members of the board found disability to the body of patient upto 15%. The disability certificate is Ex.P31 and therein, it was also stated that this disability was in relation to “# ***BB (Rt) leg with NU with nailing with restriction of (Rt) knee & ankle joint with O/c Head Injury***”.

Learned counsel for the respondents have also made reference to the cross-examination of said witness, where this witness has admitted a suggestion to be correct that the disability mentioned in Ex.P31 is not permanent and voluntarily, the said witness stated that it can be reduced to some extent by physiotherapy and active exercise as well as with passage of time.

Very true, in the disability certificate, there is total silence about the nature of the disability to be permanent or temporary, but however, this ipso facto, does not lead to the conclusion that it is temporary. Considering the testimony of the doctor, who had proved the disability certificate, in any case, it can be considered that with active movement and physiotherapy, this disability may reduce to some extent and therefore, keeping in view the element of improvement, in any case, the disability, as such, can be considered as 10% of the body.

Considering the same, the assessment of the compensation to be awarded to the appellant-claimant has to be made. Looking at the kind of injuries sustained, it is quite obvious that for some period of time, the



appellant-claimant must have become immobile, as the major injuries are on the legs, for which, closed reduction and internal fixation was done. Thus, for some period of time, the appellant-claimant would have remained on bed and there is bound to be loss of her services, to the household, at least for a period of six months.

The appellant-claimant was about 35 years, at the relevant time. Considering this age and also considering the appellant-claimant to be a homemaker, the compensation has to be worked upon. One has to keep in mind that valuable services are rendered by the homemaker and the same, in any manner, cannot be computed in terms of money, which is less than the earnings of the unskilled worker. The term '**services**' is required to be given a broad meaning and must be construed while taking into consideration, the loss of personal care and attention given by the victim to her family.

Considering the same, beneficial reference is also made to ***Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166***, wherein, it was held by the Hon'ble Supreme Court that the effect of inflation, ought to be taken into consideration and the future prospects also, are required to be taken into consideration, on the notional income of the housewife.

Considering the aforesaid, while having realistic approach, the earnings of appellant-claimant Kamlesh Devi can conveniently be taken as Rs.5000/- per month. To the said amount, addition on the count of 'future prospects' ought to be made. Considering her age to be 35 years, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 40% ought to be made, on the count



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of 'future prospects', which comes to be $\text{Rs.}5000+2000=\text{Rs.}7000/-$. Thus, the loss of services of the appellant-claimant for the period of her having remained bed-ridden, at least for a period of six months after the accident, comes to be $\text{Rs.}7,000 \times 6 = \text{Rs.}42,000/-$.

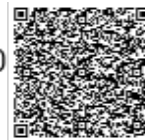
Considering the age of appellant-claimant, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the appropriate multiplier, to be applied is '16' and while considering the disability to be 10%, the loss of services is assessed as $\text{Rs.}7000 \times 12 \times 16 \times 10 / 100 = \text{Rs.}1,34,400/-$.

It should be noted that on account of expenditure incurred on treatment of the appellant-claimant, learned Tribunal had appropriately granted an amount of **Rs.1,58,000/-**, towards '**medical expenses**'.

During the period of hospitalization and some time thereafter, the claimant must have spent some amount on transportation, while making 'to and fro' trips to the hospital. Thus, the amount awarded on the count of 'transportation charges', stands enhanced from $\text{Rs.}8,000/-$ to **Rs.20,000/-**.

Obviously, during the period of treatment and thereafter, the appellant-claimant must have been put on '**special rich diet**', for the healing process. Thus, the consolidated amount, on this basis, as assessed by learned Tribunal, stands bifurcated and on the count of 'special diet', a sum of **Rs.20,000/-** is granted.

Looking at the kind of injuries sustained by the appellant-claimant, she must have required constant help for some period of time. Considering the same, even though, she must have been looked after by her family members, but it is quite obvious that her family members ought to



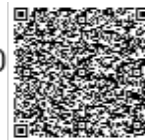
have taken care by diverting their own time, from any form of gainful employment, which could have generated some income. Considering the same, on the count of 'attendant charges', while working on the modest estimate of Rs.3000/- per month, for a period of six months, an amount of **Rs.18,000/-** is granted.

After the accident, appellant-claimant Kamlesh Devi must have passed through a very traumatic state of mind, considering the physical wreck befallen upon her. Thus, considering the same, the consolidated amount awarded stands bifurcated and on the count of '**pain and suffering**', an amount of **Rs.30,000/-** is granted.

Even, after the discharge from the hospital, it is quite obvious that some medical treatment is inevitable and keeping in view the requirement of physiotherapy, on the count of '**future medical expenses**', an amount of **Rs.40,000/-** is granted.

Thus, in the light of aforesaid, the re-computation of the compensation is made, as herein given:-

| | | |
|----|--|----------------------|
| 1. | Loss of services (for six months) | Rs.42,000/- |
| 2. | Loss of services on account of disability | Rs.1,34,400/- |
| 3. | Medical Bills | Rs.1,58,000/- |
| 4. | Transportation | Rs.20,000/- |
| 5. | Special rich diet | Rs.20,000/- |
| 6. | Attendant charges | Rs.18,000/- |
| 7. | Pain and suffering | Rs.30,000/- |
| 8. | Future medical expenses | Rs.40,000/- |
| | Total | Rs.4,62,400/- |



As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.4,62,400-2,21,000=Rs.2,41,400/-**. On the enhanced amount of compensation, i.e. **Rs.2,41,400/-**, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

Accordingly, the impugned Award stands modified, to the extent, as indicated aforesaid. All the remaining terms, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid observations, the present appeal stands allowed.

May 13, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No