

(2013) 07 P&H CK 0636
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 3470 of 2012 O and M

Kulwant Kaur

APPELLANT

Vs

M/s. Apna Travels Private Limited and Others

RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0636

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : B.S. Dhillon, for the Appellant; D.R. Bansal, Advocate for Respondent No. 3-Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

Vijender Singh Malik, J.—This is claimant's appeal for enhancement of compensation awarded to her by learned Motor Accidents Claims Tribunal, Amritsar (for short, "the Tribunal") vide award dated 28.02.2012 in a sum of Rs. 3,63,783/- for the injuries she suffered in a roadside accident that took place on 3.5.2011. Since the point involved in the appeal is adequacy of compensation, the facts are not required to be noticed in detail. Kulwant Kaur, the appellant suffered injuries in the accident. She had got fractures at 4 places in her right arm and there were other injuries. Her two teeth were also uprooted and right portion of jaw was damaged. She also suffered injuries in her head. She was taken to Amandeep Hospital, Amritsar where she remained admitted from 3.5.2011 to 25.5.2011 and she underwent four operations. Fixator was applied in her right arm. She was 25 years of age when she suffered the injuries. She is a graduate and was running a tuition centre besides stitching garments and was earning Rs. 10,000/- per month. On account of the accident, she has become permanently disabled.

2. The respondents have controverted the averments of the claim petition. They have denied the accident and injuries as suffered by the claimant and the number of operations she claims to have undergone.

3. Learned Tribunal after taking evidence found the claimant to have suffered temporary disability of 45%. A sum of Rs. 3,38,383/- was found to have been spent by her in her treatment. Besides that, a sum of Rs. 5,400/- was allowed as loss of income due to temporary disability. She was also awarded a sum of Rs. 10,000/- for pain and suffering. She was also allowed a sum of Rs. 10,000/- for special diet, transportation charges, attendant charges and future medicines. Thus, the Tribunal awarded a sum of Rs. 3,63,783/- as compensation to the claimant.

4. Learned counsel for the appellant has contended that the right arm of the claimant was fractured at four places. According to him, it was rather crushed. He has submitted that she has also suffered injuries on various other parts of the body and she remained admitted in the hospital for 22 days and underwent various operations. He has submitted that learned Tribunal has not awarded even a single penny in the name of those expenses on her treatment for which bills were not collected. He has submitted that the amount allowed in the name of loss on account of disability and other heads are also paltry.

5. Learned counsel for respondent No. 3 has submitted, on the other hand, that learned Tribunal has assessed adequate and proper compensation. According to him, the appellant is not entitled to any other amount as compensation.

6. It is a case where the appellant not only suffered four fractures in her right arm, but had also suffered various injuries for which she underwent four operations. Her disability, however, at 45% is temporary as per her evidence. She has proved her expenses in a sum of Rs. 3,38,383/- on her treatment. Learned Tribunal awarded the same amount as compensation for the expenses in the treatment and did not add to it any amount in the name of those expenses for which bills were not collected. The compensation in a sum of Rs. 10,000/- for pain and suffering in such a case is also on a lower side. Another sum of Rs. 10,000/- awarded in the name of attendant charges and transportation charges and expenses on special diet and future medicines is also on a very lower side. Similarly, the amount awarded in the name of loss of her income during six months is also on lower side.

7. The income of the appellant is taken at Rs. 2,000/- per month. The appellant is a graduate and was running a tuition centre. Even if she was a house wife, her contribution to the family cannot be treated at such a low amount. Taking her income at Rs. 4,000/- per month, I assess a sum of Rs. 20,000/- as expenses for loss of income during subsistence of the temporary disability.

8. A woman who has put bills on record for a sum of Rs. 3,38,383/- can be expected to have spent something more on her treatment for which bills could not be collected. In these circumstances, I assess a sum of Rs. 3,50,000/- as compensation for the expenses incurred in her treatment. For pain and suffering, I find a sum of Rs. 40,000/- to be adequate as compensation and under the other heads of special diet, attendant and transportation charges as well as

future expenses on treatment, I take another sum of Rs. 40,000/- as compensation payable to the appellant-claimant. In this way, I find a sum of Rs. 4,50,000/- as compensation payable to the claimant-appellant for her injuries. Consequently, the appeal succeeds and is allowed enhancing the compensation from Rs. 3,63,783/- to Rs. 4,50,000/- which shall be payable to the appellant by the respondents with interest and in the manner allowed by learned Tribunal in the impugned award.