

**Rubi Vs. Bhupinder and Others**

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**Court :** Punjab and Haryana

**Decided On :** Feb-11-2014

**Appellant :** Rubi

**Respondent :** Bhupinder and Others

**Judgement :**

FAO-4397-2003 (O&M) 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH XOBJC-66-2009 and FAO-4397-2003 (O&M) (MACT case No.11 of 2001) Date of decision:

11. 2.2014 Rubi ...Appellant Versus Bhupinder and others ...Respondents  
CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN Present: Mr.AK Goel, Advocate for the appellant Mr.DK Dogra, Advocate for the cross-objector-Insurance Company \*\*\*\* Jitendra Chauhan, J.

1. The present appeal has been filed by the claimant-appellant, seeking enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Bhiwani (for short 'the Tribunal'), vide award dated 25.7.2003, on account of the injuries suffered by her in a motor vehicular accident. The cross-objections have been filed by the Insurance Company.

2. Learned counsel for the appellant contends that the appellant suffered multiple injuries. He remained hospitalised for a long period. She was operated upon twice. On account of injuries, he suffered disability to the extent of 3%. She was a minor

girl of 4 years. The learned Tribunal awarded a lump sum amount of Rs.46,500/- as Shanker Gauri 2014.02.20 10:59 I attest to the accuracy and integrity of this document High Court Chandigarh FAO-4397-2003 (O&M) 2 compensation, which is on the lower side.

3. On the other hand, the learned counsel for the cross-objector- Insurance Company submits that the vehicle in question being a private car, was used for hire and reward, which is against the terms and conditions of the Insurance policy. He further submits that the driving was not holding a valid driving licence at the time of accident.

4. I have heard the learned counsel for the parties and perused the record carefully.

5. The question involved in the cross-objections, has already been decided by this Court vide order of even date passed in FAO-4390- 2003 (O&M), therefore, the same are dismissed.

6. It is not disputed that appellant Rubi suffered multiple injuries on account of the accident. She had sustained fracture forearm bones and fracture neck femur. He remained admitted in Anand Nursing Home Bhiwani from 23.5.2000 to 1.6.2000. She was again admitted on 28.3.2001 for implant removal and operated upon and discharged on 30.3.2001. She suffered disability to the extent of 3%. The injured was 4 years old girl. She must have suffered agonising pain on account of the injuries. The learned Tribunal awarded a sum of Rs.46,500/-, which is inadequate. The Hon'ble Supreme Court in Master Mallikarjun vs. Divisional Manager, The National Insurance Company Limited and another 2013(4) RCR (Civil) 295 in para 12, it has been held as under:- 12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3

lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. For permanent disability upto 10%, it should be Re.1 lakh, unless there are exceptional circumstances to take different yardstick.

7. In the present case, the appellant, who is a minor girl, suffered 3% disability, therefore, this Court allows another sum of Rs.1,00,000/- towards disability and also another sum of Rs.25,000/- towards pain and suffering, special diet, transportation, attendant charges etc., which would meet the ends of justice.

7. Accordingly, the enhanced amount of Rs.1,25,000/- shall be paid to the claimant-appellant, within 45 days from the date of the receipt of the certified copy of the judgment, failing which, the appellant shall be entitled to get interest @ 7.5% per annum from the date of the filing of the appeal till its realisation.

8. In view of the above, the present appeal is partly allowed and the impugned Award is modified to the above extent. 11.2.2014 (JITENDRA CHAUHAN) gsv JUDGE Shanker Gauri 2014.02.20 10:59 I attest to the accuracy and integrity of this document High Court Chandigarh

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