

**Basanti Devi Vs. Ramchandra and ors.**

**Basanti Devi Vs. Ramchandra and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/769425](http://sooperkanoon.com/769425)

**Court :** Rajasthan

**Decided On :** Dec-06-2004

**Reported in :** II(2005)ACC319

**Judge :** Dalip Singh, J.

**Appellant :** Basanti Devi

**Respondent :** Ramchandra and ors.

**Judgement :**

**Dalip Singh, J.**

1. This appeal has been filed against the award dated 4.10.1993 passed by the Motor Accident Claims Tribunal, Jaipur (herein after referred to as 'the Tribunal') in Claim Petition No. 364/1993 (79/1990) filed by the appellant for the enhancement of the amount of compensation awarded by the Tribunal for the injuries suffered by the appellant in a motor accident which took place on 5.6.1989 in which the appellant suffered multiple injuries.

2. The brief facts giving rise to this appeal are that the appellant was travelling with her husband and other family members in a Matador bearing Registration No. RSN 7192 and they were going to Nainital from Jodhpur via Jaipur and when the said vehicle reached near village Kanaota on the National Highway No. 11, it met with an accident with a truck bearing No. RNV 7866 which was coming from the

opposite direction which was rashly and negligently driven by driver Ramchandra the respondent No. 1. The said truck was owned by respondent No. 2 and insured by the respondent No. 3.

3. As a result of the aforesaid accident, the appellant Smt. Basanti Devi received injuries on the occipital region of the head and during the course of her treatment received 25 stitches. She also suffered fracture of 3rd 4th, 5th and 6th ribs of the right side. Apart from this she also sustained other minor injuries. It has also come in the evidence of Dr. Sukhdev Chandra, who examined the appellant that she had to undergo operation for the removal of the accumulated fluid from the lungs.

4. Learned Counsel for the appellant submits that the appellant remained under treatment for a period of nearly one year w.e.f. the date of accident i.e., 5.6.1989 and during this period, she was unable to perform his regular duties as a house wife and also as a mother.

5. The submission of the learned Counsel for the appellant is that the learned Tribunal while deciding Claim Case No. 75/1990 has granted inadequate compensation amounting to Rs. 36,000/- only on account of the injuries suffered by her for the fractures and the head injuries and also an additional amount of Rs. 1,000/- for the injuries on the nose and Rs. 5,000/- for the injury which resulted in 25 stitches on the head. Apart from the above, by way of general damages and for treatment an amount of Rs. 6,000/- was awarded. The Tribunal in all determined the amount of compensation as Rs. 48,000/-.

6. Learned Counsel for the appellant further submits that the learned Tribunal has failed to take in to consideration the fact that an amount under the head of personal and social loss including pain and suffering, discomfiture also deserves to be taken into consideration and relied upon the Judgment of Karnataka High Court, rendered In the case of Kanayyalal v. Divisional Controller, Karnataka State Road Transport Corporation . Learned Counsel for the appellant also submitted that no amount was separately awarded under the head of pain and suffering and the fact that the appellant remained under treatment for about a period of one year when she was incapacitated, she had to take services of others for performing day-to-day household duties as well as to look after her daughter Kumari Sapana

who had also suffered fracture of two bones in the same accident and also remained in bed for a period of nearly six months. Learned Counsel for the appellant drew my attention to the statement of A.W. 6, Daulat Ram, the husband of the appellant who had deposed that the appellant remained incapacitated and also in bed for nearly one year.

7. Learned Counsel for the respondent, on the other hand, has submitted that the compensation as awarded by the Tribunal is overall adequate in the facts and circumstances of the present case. Learned Counsel for the respondents has also submitted that the yardstick which was applied while passing the award are correct and in that view of the matter, the amount of award cannot be said to be inadequate. Moreover, the said amount has been paid and the appellant is earning interest on the said amount as well.

8. I have given my thoughtful consideration to the submissions made at the Bar and perused the record of the case. It is not in dispute that under the head of pain and suffering no amount has been awarded to the appellant. Also it has not been taken in to consideration by the Tribunal the fact that as a result of the aforesaid injuries suffered by the appellant, she remained incapacitated and underwent surgical operations twice subsequent to the accident for the injuries suffered by her as has been deposed by A.W. 6 Daulat Ram, the husband of the appellant. For the long drawn treatment as in the case of the appellant which carried on for nearly one year and the two surgical operations that were performed on her for which she remained hospitalised though, no evidence has been produced in the forms of the bills, etc. it would be safe that in such cases, a minimum amount of Rs. 10,000/- must have been spent by the appellant and her family for her treatment. In this view of the matter, I deem it just and proper that an additional amount of Rs. 10,000/- to what has been awarded by the Tribunal for the medical expenses deserves to be allowed in this appeal.

9. In the facts and circumstances of the present case, where the appellant remained incapacitated and was unable to perform her daily duties she must have utilised the services of a maid servant and other attendants and also for looking after her daughter Kumari Sapana, who was also injured in the same accident and

received two fractures on the legs. Kumari Sapana being seven years of age at the time of accident must have required regular attention. Consequently, an amount of Rs. 10,000/- would safely meet the aforesaid requirements and the additional amount of Rs. 10,000/- is awarded in this appeal on that count to the mother of Kumari Sapana, the appellant.

10. Learned Counsel for the appellant has then submitted that on account of personal loss particularly under the head of pain and suffering personal inconvenience, social discomfiture and discomfiture on account of disfiguration caused by 25 stitches received on the head as a result of the aforesaid accident, an amount of Rs. 1,00,000/- should be awarded to the appellant.

11. In the facts and circumstances of the case, since the direct evidence has not been led by the appellant it cannot be denied with that the lady aged 23 years, who met with an accident must have suffered social and personal discomfiture, also inconvenience on account of disfiguration caused by 25 stitches she received on the occipital region as well as the two surgical operations which were performed on her. In this view of the matter, the consolidated amount of Rs. 36,000/- which was awarded by the Tribunal for the injuries suffered by her is enhanced to Rs. 75,000/- to meet the ends of justice.

12. Consequently, this appeal is allowed to the extent that for the injuries received by the appellant the amount of Rs. 36,000/- (Rs. thirty-six thousand only) as awarded by the Tribunal is enhanced to Rs. 75,000/- (Rs. seventy-five thousand only). For the medical expenses the amount of Rs. 10,000/- (Rs, ten thousand only) and also for the personal and social loss an amount of Rs. 10,000/- (Rs. ten thousand only) is also awarded which in all comes to Rs. 95,000/- (Rs. ninety five thousand only). The amount of Rs. 36,000/- as awarded by the Tribunal shall be reduced from Rs. 95,000/-. The respondents shall pay to the appellant the balance amount of Rs. 59,000/- (Rs. fifty-nine thousand only), by way of demand draft/crossed cheque or deposit with the Tribunal along with the interest @ 6% per annum within a period of three months from today w.e.f. the date of filing of the appeal i.e., 11.1.1994. However, in case, the respondents fail to pay the foresaid amount along with interest within the aforesaid period of three months, the

appellant shall be entitled to recover the said amount from the respondents along with the interest @ 9% per annum w.e.f. the date of filing of the claim petition i.e., 1.11.1989.

13. In the facts and circumstances there shall be no order as to costs.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**