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

Decided on: 07.09.2017

1. FAO No. 1204 of 1995 (O&M)

Banwari Lal**.....Appellant**

versus

Narvail Singh alias Jarnail Singh and others**.....Respondents**

2. FAO No. 1205 of 1995 (O&M)

Smt. Gulabi**.....Appellant**

versus

Narvail Singh alias Jarnail Singh and others**.....Respondents**

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Balwant Singh Chauhan, Advocate
 for the appellant(s).

Mr. Amit Kundra, Advocate
for respondent No. 2-Insurance Company

Rajbir Sehrawat, J.(Oral)

1. These are two appeals filed by the injured claimants against the award passed by Motor Accident Claims Tribunal, Karnal whereby each of the appellant was granted an amount of ₹ 30,000/- as compensation on account of the injuries suffered by them. The present appeals have been filed for enhancement of the amount of compensation. Both the appeals are being decided together because these are arising out of the same award passed by the Motor Accident Claims Tribunal, Karnal.

2. The brief facts as claimed in the petitions by the claimants before the Motor Accidents Claim Tribunal are that Banwari Lal and Gulabi Devi along with other co-passengers were travelling in a bus bearing registration No. PB-12-A-8218 owned by respondents No. 3 and 4. On 19.01.1993, the bus was going from Delhi to Dharamshala. Respondent No. 1-Karnail Singh was driving the bus. In the way the offending truck bearing registration No. PB-02-D-9424 was coming from the opposite direction at a fast speed and being driven in a negligent manner. The truck struck against the bus. The truck in question was driven by Narvail Singh alias Jarnail Singh-respondent No.1; who was stated to be a co-owner with respondent No.1(a). The truck was insured with the Insurance Company-respondent No. 2. In this collision, the claimants Banwari Lal and Gulabi Devi along with others sustained injuries. The matter was reported to the police by the driver of the bus.
3. The respondents denied the accident in the manner as claimed by the claimants-appellants. The parties led their respective evidence. After appreciating the evidence the learned Motor Accident Claims Tribunal held the truck in question to be the offending vehicle and the liability of payment of compensation upon respondents No. 1 and 2 was held to be joint and several. The Tribunal awarded a consolidated amount of ₹ 30,000/- in each case to both the appellants. Although the amount was awarded as a consolidated sum, however, it is written that this amount includes compensation on account of pain and suffering, amenities of life, medicines,

transportation and special diet etc.

4. Learned counsel for the appellant(s) submitted that the amount awarded by the Tribunal is insufficient. It is submitted by learned counsel for the appellant(s) that in case of appellant-Banwari Lal, he had suffered fracture in his left leg. He remained on bed for six months and is not in a position to walk without stick. He further submitted that the appellant had spent ₹12,000/- on the treatment itself. He further submitted that Banwari Lal-appellant remained hospitalized for two days. As per the testimony of the doctor, PW-7, the claimant suffered permanent disability of 15% qua his legs and if this disability is converted into disability of whole body, it is certified to be 8.2%. Therefore, it is the submission of the learned counsel for the appellant that the plaintiff has suffered enormous pain and suffering. He has suffered disability and for that he has to be awarded compensation on account of physical disability. It is his further submission that the compensation on account of special diet and transportation has to be increased.

5. In case of appellant-Gulabi Devi, it is the contention of the learned counsel for the appellant that she had suffered injuries in the lower leg and her disability was certified by the doctor to be 20% qua the leg and if it is converted into disability of the whole body, it is certified to be 13.7% as per the doctor appearing as PW-7. He has submitted that the compensation awarded on account of loss of pain and sufferings, transportation, special diet and loss of amenities is grossly inadequate in case of appellant-Gulabi Devi.

6. After hearing learned counsel for the appellant and perusal of the file, this court finds that it is not in dispute that appellant-Banwari Lal has suffered a physical permanent disability to the extent of 8.2% with respect to whole body and appellant-Gulabi Devi has suffered 13.7% permanent disability with respect to whole body. The Tribunal has not granted any compensation on account of physical disability, *per se*. The amount awarded is only on account of the consequences of this physical disability like pain and sufferings, transportation, special diet, etc. Even the amount awarded by the Tribunal on account of these consequences of disability appears to be a little lesser as compared to the disability, pain and sufferings arising out of that disability and special diet, etc.
7. Since the Tribunal has not awarded the amount of compensation separately for various heads, therefore, this Court is also inclined to grant the amount of compensation in lump sum. Accordingly, the amount of ₹30,000/- granted by the Tribunal in case of the appellant-Banwari Lal and in case of Gulabi Devi each, is enhanced to ₹50,000/- each. This amount shall include the amount for physical disability to the extent it is suffered by the claimants-appellants and also the compensation on account of pain and sufferings, amenities of life, treatment, transportation and special diet, etc.
8. In view of the above, each of the appellant in the above said appeals is granted an amount of ₹50,000/- as compensation as

detailed above. The award of the Motor Accident Claims Tribunal, Karnal is modified to that extent. The amount shall also earn the interest at the rate as is granted by the Motor Accident Claims Tribunal

9. In view of the above, the present appeals are allowed in the above said terms.

7th September, 2017
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[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned	-	Yes
Whether reportable	-	No