

FAO-765-2003

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

**FAO-765-2003**

**Date of Decision: 23.09.2022**

**NACHHATAR KAUR**

..... Appellant

*Versus*

**PEPSU ROAD TRANSPORT CORPORATION**

..... Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Arihant Jain, Advocate with  
Mr. Rishav Jain, Advocate  
for the appellant.

Mr. Vikas Mehsempuri, Advocate  
for respondent No.1.

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**JAGMOHAN BANSAL, J. (Oral)**

1. The appellant through instant appeal is seeking enhancement of compensation awarded vide award dated 07.11.2002 passed by learned Motor Accident Claims Tribunal (for short 'Tribunal'), Patiala, whereby learned Tribunal has awarded compensation of Rs.97,000/-/- alongwith interest @ 9% per annum on account of injuries/suffered by appellant.

2. The facts emerging from record are that on 23.06.1999, appellant Nachhatar Kaur was travelling in PRTC bus bearing registration No.PB-11-E-9631. The aforesaid bus met with an accident with a tempo which was coming from opposite side. The appellant in this accident received injuries and she remained admitted in Rajindra Hospital, Patiala from 23.06.1999 to 25.06.1999, 31.08.1999 to 22.10.1999, 11.11.1999 to 17.11.1999 and 08.02.2000 to 21.02.2000. In

the accident right leg femur was fractured and a rod was inserted. The appellant suffered 25% permanent disability. The appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short the '1988 Act'), seeking compensation on account of injuries suffered by her. Learned Tribunal vide order 07.11.2002 awarded a sum of Rs.97,000/- on account of injuries suffered by appellant.

3. Learned counsel for the appellant contended that the appellant is suffering from 25% permanent disability and she had remained hospitalized for a quite long time, thus, she had suffered lot of pain and mental agony apart from incurring huge expenses on the treatment. Learned Tribunal ignoring the injuries suffered by appellant as well as pain and mental agony has awarded a small amount of Rs.97,000/-.

4. Learned counsel for the respondent does not dispute the factum of accident as well as injuries suffered by appellant, however, submits that amount of compensation awarded is just and reasonable as appellant had suffered 25% permanent disability and there is no evidence of income. She is a house wife, thus, income of the husband cannot be considered for the purpose of determination of the compensation.

5. I have perused the record of the case and heard arguments of both sides.

6. Hon'ble Supreme Court in a more recent judgment in **Kirti and another Vs. Oriental Insurance Company Limited (2021) 2 SCC 166**, has elaborately dealt with question of income of house makers. Hon'ble Supreme Court has dilated on the issue and held that it would be unfair, unjustified to conclude that women, who are not working in

offices but taking care of all family affairs are not non-working and their income should not be assessed minimum income. The Hon'ble Supreme Court has considered that the lady staying at home performs a number of jobs which include making food for the family members, taking care of husband, children, old parents apart from miscellaneous day to day activities.

7. Keeping in mind observations of Hon'ble Supreme Court, I am of the considered opinion that it would be unjust and unfair to consider income of appellant negligible or treat her a lady without income. The appellant has inevitably suffered 25% permanent disability and she had remained hospitalized for a quite long time. At the time of accident, she was 40 years old. She had suffered a lot of pain, mental agony which is quite evident from the long hospitalization period as well as injuries suffered by her. It is well known fact a lady is back bone of the home and the nature of injury is such that she would have not been able to take care of the family members. In such facts and circumstances, I deem it appropriate to enhance the amount of compensation from Rs.97,000/- to Rs.1,50,000/-. The respondent is directed to make payment enhanced amount alongwith interest as awarded by learned Tribunal within a period of eight weeks from today.

( JAGMOHAN BANSAL )  
JUDGE

23.09.2022  
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|---------------------------|---------------|
| Whether speaking/reasoned | Yes/No        |
| <i>Whether Reportable</i> | <i>Yes/No</i> |