IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104 **FAO-243-1991 (O&M)**
Date of Decision: 18.11.2024

Ajudhya Parshad (deceased) through LR ..... **Appellant**

Versus

Sodhi Singh and others ..... **Respondents**

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rakesh Nagpal, Advocate
for the appellant.

Mr. Sidhant Mehra, Advocate, for
Mr. Anil Mehra, Advocate
for respondent No.3- Insurance Company.

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VIKAS BAHL, J (ORAL)

1. The claimant (presently through his LR) has filed the present appeal for modification of the Award dated 03.01.1991.

2. The only issue for consideration in the present case is the amount to which the claimant is entitled, as the factum with respect to the claimant having suffered injuries in an accident which took place on 11.06.1989 with the offending vehicle driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3 is not in dispute. Even the factum of the present appellant having suffered 40% permanent disability is not in dispute.

3. Learned counsel for the appellant has submitted that the Motor Accident Claims Tribunal had awarded a lumpsum amount of Rs.25,000/-

and had not adopted the multiplier method which is against law. It is submitted that in the present case, the case of the claimant is that he is an income tax assessee and thus, an amount of Rs.1500/- per month should have been taken into consideration as the income of the claimant and in case the said income is taken, then the annual income of the claimant would be Rs.18,000/- and after taking into consideration 60% deduction and 5% future prospects, the said income comes to Rs.18,900/-. It is submitted that since the claimant had 40% disability, the said amount would come to Rs.7560/- and since the appellant was 70 years of age, thus the multiplier of 5 was supposed to be applied and the total amount on account of loss of income would come to Rs.37,800/-. It is submitted that the amount on account of medicines bills, treatment and special diet was only taken to be Rs.5,000/-, whereas an amount of Rs.20,000/- should have been awarded as the claimant remained in Dayanand Medical College and Hospital, Ludhiana from 16.06.1989 to 24.06.1989 and for a further treatment for four months. It is submitted that an amount of Rs.20,000/- on account of pain and suffering is also on the lower side and an amount of Rs.30,000/-should have been awarded on said account. It is argued that no amount has been given for transportation expenses and an amount of Rs.5,000/- should have been awarded for the same and thus, an amount of Rs.72,800/- as additional amount should be awarded to the claimant. It is submitted that the said amount should be released to the present claimant by applying the interest rate of 9%.

4. Learned counsel for the respondent-Insurance Company on the other hand, has submitted that no income tax return has been produced on

record by the present appellant and thus, the monthly income of Rs.1500/- per month, which is sought to be claimed by the claimant, is highly excessive. It is submitted that as is apparent from paragraph 11 of the judgment dated 01.03.2017 of a Co-ordinate Bench of this Court in ***FAO-939-1988*** in the case of ***'Pritpal Mittal Vs. Bakhshish Singh and others'***, the minimum wages in the year 1986 were not more than Rs.550/- per month, and since in the present case the accident had taken place in the year 1989, thus, the maximum amount of minimum wages that can be taken into consideration is Rs.750/- per month. It is also submitted that the rate of interest which the present appellant is claiming, i.e. 9% is highly excessive and at best, 6% rate of interest can be granted on the additional amount to be awarded by this Court.

5. Learned counsel for the appellant has submitted a revised chart after taking into consideration the objections raised by learned counsel for the respondent-Insurance Company and the said revised chart is reproduced hereinbelow:-

Revised Chart

Monthly Income	750/-
Annual	9000/- (750 x 12)
Deduction 60%	5400/-
Future Prospects 5%	3600 + 180 = 3780/-
Multiplier 5	5 x 3780 = 18,900/-
Medical expenses	20,000/-
Special Diet	5,000/-
Pain and suffering	30,000/-
Transportation charges	5,000/-
Total comes	78,900/-
Already paid	25,000/-
Total amount due	53,900/-
Interest	7.5% (From 01.12.1989 to till payment)

6. This Court has heard learned counsel for the parties and has perused the paper book and has also considered the said revised chart and the same has been found to be in accordance with law. In the judgment of the Co-ordinate Bench of this Court in the case of Pritpal Mittal (supra), in para 11, it has been noticed that that the minimum wages in the year 1986 were not more than Rs.550/- per month and thus, the amount of Rs.750/- taken as monthly income in the above said revised chart, with respect to the accident which took place in the year 1989, is an appropriate amount. The multiplier of 5 is also correctly applied, inasmuch as, the age of the injured at the time of accident was 70 years. On the other aspects also, the amount has been correctly mentioned and thus, the present appellant is entitled to an additional amount of Rs.53,900/-. This Court is of the view that 7.5% rate of interest is the appropriate rate of interest.

7. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the Award dated 03.01.1991 is modified and respondent No.3-Insurance Company is directed to pay an additional amount of compensation to the tune of Rs.53,900/- to the legal heirs of the appellant along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realisation within a period of six weeks from today.

8. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

18.11.2024
D.Bansal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No