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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. FAO-1737-2010 (O&M)
Date of decision: 23.10.2024

Bachan Kaur
...Appellant

Versus

Onkar Chand and others
...Respondents

2. FAO-443-2010 (O&M)
Date of decision: 23.10.2024

Satnam Singh
...Appellant

Versus

Onkar Chand and others
...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Inderjit Sharma, Advocate for the appellant.
(In both cases)
Mr. Vinod Chaudhri, Advocate for the Insurance Company.

VIKAS BAHL, J. (ORAL)

1. The present order would dispose of the abovesaid two
appeals. First appeal bearing No.FAO-1737-2010 has been filed by
Bachan Kaur seeking enhancement of the amount of compensation on



account of the injuries suffered in a motor vehicular accident involving Indica Car bearing registration No.CH-03-B-9090, being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. FAO-443-2010 has been filed by Satnam Singh also for enhancement of the amount of compensation on account of the injuries received by him in the same accident.

2. The only issue in the present case is with respect to the amount of compensation that has to be awarded to the appellant(s), as all the other issues including the issue to the effect that respondent No.1-driver was negligent in driving the offending car which was owned by respondent No.2 and was insured by respondent No.3, are not in dispute.

3. The appellant-Bachan Kaur had been awarded a total amount of Rs.1,40,000/- as compensation and the appellant-Satnam Singh had been awarded a total amount of Rs.21,500/- as compensation vide common award dated 10.03.2009.

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4. Learned counsel for the appellant has submitted that Bachan Kaur is entitled to an enhanced amount of compensation, inasmuch as, as per the settled law in case of permanent disability, notional income of the appellant has to be taken into consideration and the compensation is to be awarded by taking into consideration the said notional income. It is submitted that in the present case, notional income of the said Bachan Kaur should be taken as Rs.8000/- and multiplier of 11 is required to be applied as the injured was 53 years of age at the time of her accident and



further 40% of her annual income was required to be taken into consideration for assessing the total compensation as the said Bachan Kaur had suffered 40% permanent disability. It is submitted that the said aspects have not been taken into consideration by the Tribunal. It is further submitted that the additional amount of compensation be paid to the appellant with the interest at the rate of 9% per annum from the date of filing of the claim petition till its realisation.

5. Learned counsel for the Insurance Company, on the other hand, has submitted that the notional income sought to be claimed by the present appellant is highly excessive as in the year 2004, when the accident had taken place, the highest notional income that could be taken into consideration with respect to the appellant, who was a house wife, at best is Rs.3000/- per month. It is submitted that in case, the plea of notional income is accepted, then, the amount of Rs.80,000/- which had been granted to the present appellant, as mentioned in para 29 of the impugned award, deserves to be deducted as the present appellant cannot be granted double benefit. It is further submitted that the interest at the rate of 9% per annum as sought by the present appellant is highly excessive and at best, the present appellant be granted interest at the rate of 6% per annum.

6. Learned counsel for the appellant in rebuttal, after taking into consideration the objections raised by learned counsel for the Insurance Company has submitted a revised chart which is reproduced hereinbelow:-



“Revised Chart

<i>Notional Income</i>	<i>Rs.3000/- x 12 = Rs.36,000/- per annum</i>
<i>Disability 40%</i>	<i>Rs.36,000/- x 40% = Rs.14,400/-</i>
<i>Multiplier of 11</i>	<i>Rs.14,400/- x 11 =Rs.1,58,400/-</i>
<i>Already awarded expenses of treatment</i>	<i>Rs.51,500/-</i>
<i>Transportation charges</i>	<i>Rs.2500/-</i>
<i>Already awarded loss of amenities</i>	<i>Rs.6000/-</i>
<i>Gross Total</i>	<i>Rs.2,18,400/-</i>
<i>Awarded by MACT</i>	<i>Rs.1,40,000/-</i>
<i>Addl. Compensation</i>	<i>Rs.78,400/-</i>

7. This Court has considered the revised chart and finds that the same is in accordance with law. The notional income which has been taken into consideration in the abovesaid chart is Rs.3000/- per month, which is as per the settled law as the accident had taken place in the year 2004. The same thus comes to Rs.36,000/- per annum. Since, the permanent disability suffered by the said Bachan Kaur is 40%, thus, 40% of Rs.36,000/- is required to be taken into consideration as annual notional income and the same has been correctly multiplied by 11, as the age of the injured was 53 years at the relevant time. An amount of Rs.80,000/- which had been granted to the appellant by the Motor Accident Claims Tribunal has been rightly deducted whereas the other three amounts of Rs.51,500/- on account of expenses of the treatment, Rs.2500/- on account of transportation charges and Rs.6000/- on account of loss of amenities have been rightly added in the said revised chart and thus, the additional amount of compensation to which the present



appellant is entitled to would be Rs.78,400/-. With respect to the rate of interest, this Court has repeatedly deemed fit to award the rate of interest at the rate of 7.5% per annum, which rate of interest is also reasonable in the present case.

8. Accordingly, an additional amount of compensation of Rs.78,400/- be granted to the present appellant-Bachan Kaur 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 eight weeks from today.

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9. Learned counsel for the appellant has submitted that in the present case, the present appellant is required to be awarded a consolidated sum of Rs.20,000/- on account of pain and suffering. It is submitted that a perusal of Ex.P3 would show that the present appellant-Satnam Singh had suffered two fractures and had undergone great pain and suffering and had also remained admitted at the hospital and could not perform his daily work. It is submitted that the Tribunal had granted compensation on account of actual expense/transportation etc. but had not granted any amount on account of pain and suffering.

10. Learned counsel for the Insurance Company, on the other hand, has submitted that the fractures which had been suffered by the present appellant were not permanent injuries and no document with respect to permanent disability has been produced by the appellant and the said fractures in due course have healed and thus, no substantial amount can be awarded on account of pain and suffering.



11. This Court has considered the arguments raised on behalf of appellant as well as on behalf of Insurance Company and is of the view that the fact that two fractures had been suffered by the present appellant could not be disputed as the same is apparent from the record and it goes without saying that the present appellant would have suffered pain and suffering, although, it is not proved that there was any permanent disability suffered by the present appellant. Thus, this Court is of the opinion that in order to do complete justice to the present appellant and also keeping in view the fact that the accident had taken place in the year 2004, an amount of Rs.10,000/- would be adequate to be paid to the present appellant on account of pain and suffering. Accordingly, an additional amount of compensation of Rs.10,000/- be granted to the present appellant-Satnam Singh along with the 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 eight weeks from today.

12. In view of what has been observed above, both the appeals are partly allowed.

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

23.10.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No