

SANT SINGH

v.

SUKHDEV SINGH AND ORS.
(Civil Appeal No. 2882 of 2011)

MARCH 4, 2011

[G.S. SINGHVI AND ASOK KUMAR GANGULY, JJ.]

Motor Vehicles Act, 1988:

ss.163A and 166; Second Schedule – Claim petition under s.166 – Determination of compensation – Structured formula as provided for under the Second Schedule including the multiplier – Applicability of – Held: Even if a claim is made under s.166, the principles for determining compensation as per s.163A can be used as a guide – The Second Schedule can be used as a reference for determining compensation in a claim u/s.166 – In the present case, the claimant-appellant (who suffered multiple injuries on his leg in a motor accident) was earning Rs.4,000/- p.m. which amounts to Rs.48,000/- per year – After deduction of 1/3rd for personal expenses, his annual income came to Rs.32,000/- — As per the Second Schedule to the Motor Vehicles Act, as the appellant was aged 48 years, a multiplier of 13 is to be applied and accordingly, the appellant is entitled to compensation of Rs.4,16,000/- — Further amount of Rs.5,000/- awarded as compensation for hospitalization, special diet, attendant and transportation and Rs.22,209/- for cost incurred in purchase of medicines – Thus, total compensation amounts to Rs.4,43,209/-, which is rounded off to Rs.4,43,000/- — Compensation to be paid to appellant alongwith interest @ 9% by all the respondents jointly and severally.

The appellant-claimant was sitting as a pillion-rider on a scooter, when the first respondent driving a four

A wheeler came from the other side in a rash and negligent manner and struck the scooter. The appellant fractured his left leg below the knee and both the bones of his right leg. The appellant filed a claim petition before the Motor Accident Claims Tribunal under Section 166 of the Motor Vehicles Act, 1988. The appellant was 48 years of age on the date of the accident and claimed to be working as a Work Munshi and earning Rs.4000/- p.m. Considering the injuries suffered and treatment received by the appellant, the Tribunal awarded a total compensation of Rs.1,47,209/ - with interest @ 7.5%.. Aggrieved, the appellant appealed to the High Court for enhancement of compensation and interest. The High Court enhanced the compensation amount by an amount of Rs.15,000/-. Still dissatisfied with the compensation awarded by the High Court, the appellant filed the present appeal.

The appellant contended that the Tribunal had completely failed to compensate him for loss of future earnings for which multiplier method was required to be applied as per the Second Schedule to s.163A of the Motor Vehicles Act, 1988 and further that he was entitled to interest @ 9%.

Allowing the appeal, the Court

HELD:1. Though the present claim is made under section 166 of the Motor Vehicles Act, 1988, the principles for determining compensation as per Section 163A can be used as a guide. The Second Schedule can be used as a reference for determining compensation in a claim under Section 166 of the Act. [Para 11] [726-G-H; 727-A]

United India Insurance Co. Ltd. etc. etc., v. Patricia Jean Mahajan and others etc. etc. AIR 2002 SC 2607; Smt. Supe Dei and Ors. v. National Insurance Co. Ltd. and Anr. (2002) ACJ 1166 (SC); Abati Bezbaruah v. Dy. Director General,

Geological Survey of India and another AIR 2003 SC 1817 A
– relied on.

Piara Singh & Ors. v. Satpal Kumar & Ors. Vol. CZCVI-2 (2007-2) PLR 143 (P&H) – referred to.

2.1. Applications made under Section 166 of the Act are to be determined based on the principles laid down in Section 168 of the Act, whereby, the Tribunal must award compensation that is just. Hence, in the present case, compensation should be awarded on the basis of the principles contained in the Second Schedule to the Act and thus, the Tribunal and the High Court erred in not considering the same. The award of the High Court is thus set aside. [Paras 12, 13] [727-B-D] B C

2.2. The appellant was earning Rs.4,000/- p.m. which amounts to Rs.48,000/- per year. After deduction of 1/3rd for personal expenses, the annual income of the appellant would be Rs.32,000/-. As per the Second Schedule to the Motor Vehicles Act, as the appellant was aged 48 years, a multiplier of 13 is to be applied. Accordingly, appellant is entitled to compensation of Rs.4,16,000/-. A further amount of Rs.5,000/- is awarded as compensation for hospitalization, special diet, attendant and transportation and Rs.22,209/- for cost incurred in purchase of medicines. Thus, total compensation amounts to Rs.4,43,209/-, which is rounded off to Rs.4,43,000/-. The compensation shall be payable to the appellant along with interest at the rate of 9% by all the respondents jointly and severally. [Para 14] [727-D-F] D E F

Case Law Reference: G

Vol. CZCVI-2 (2007-2) PLR 143 (P&H) referred to
Para 4

AIR 2002 SC 2607 relied on Para 8 H

A (2002) ACJ 1166 (SC) relied on Para 9
AIR 2003 SC 1817 relied on Para 10

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2882 of 2011.

B From the Judgment & Order dated 20.7.2009 of the High Court of Punjab & Haryana at Chandigarh in FAO No. 150 of 2009.

C K.G. Bhagat for the Appellant.
Amrita Gupta, Parmanand Gaur for the Respondents.

The Judgment of the Court was delivered by

D **GANGULY, J.1.** Leave granted.

E 2. The appellant-claimant, Sant Singh, on 8.11.2004, was going to Dera Bassi from Chandigarh as a pillion-rider on the scooter (No. CH-01-P-7028) driven by one Nahar Singh, at about 1.30 PM, when the first respondent (driving Tata 709 No. PB-03-E-4525) came from the Dera Bassi side in a rash and negligent manner and struck the scooter. As a result of the collision, Nahar Singh and the appellant fell down and sustained multiple injuries. The appellant fractured his left leg below the knee and both the bones of his right leg. The appellant was admitted in Civil Hospital, Dera Bassi and thereafter was referred to PGI Chandigarh, where he was hospitalized for 11 days.

G 3. The appellant filed a claim petition before the MACT under section 166 of the Motor Vehicles Act, 1988 claiming Rs.5 lacs as compensation along with 24% interest. The appellant was 48 years of age on the date of the accident and claimed to be working as a Work Munshi and earning Rs.4000/- p.m.

H 4. The MACT awarded total compensation of Rs.1,47,209/

- MACT awarded Rs.5,000/- as compensation for hospitalization, special diet, attendant and transportation. As permanent disability of the limb had been assessed at 60%, it awarded Rs.1,20,000/- as compensation for permanent disability based on the reasoning in *Piara Singh & Ors. v. Satpal Kumar & Ors.* [Vol. CZCVI-2 (2007-2) PLR 143 (P&H)]. It also awarded Rs.22,209/- for cost incurred in purchase of medicines. Thus, the total compensation came to Rs.1,47,209/- with interest at 7.5%. MACT held all the respondents to be jointly and severally liable to pay the said amount to the petitioner.

5. Aggrieved with the award of the Tribunal, the appellant appealed to the High Court of Punjab and Haryana for enhancement of compensation and interest. Keeping in view the facts and circumstances of the case, the High Court was of the opinion that the amount of compensation awarded was not sufficient under the different heads for the injuries suffered and treatment received by the appellant. Thus, it awarded an overall enhancement of Rs.15,000/-, which it felt would make the compensation just and reasonable.

6. Still dissatisfied with the compensation awarded by the High Court, the appellant filed the present appeal before this Court. The appellant contended that the Tribunal had completely failed to compensate him for loss of future earnings for which multiplier method was to have been applied as per the Second Schedule to section 163A of the Motor Vehicles Act. Further, the appellant contended that he was entitled to interest @ 9%.

7. Having heard the parties and on perusal of evidence on record, we are of the opinion that the appeal of the appellant deserves to be allowed.

8. In the case of *United India Insurance Co. Ltd. etc. etc., v. Patricia Jean Mahajan and others etc. etc.*, [AIR 2002 SC 2607], the Court observed that:

A “We therefore, hold that ordinarily while awarding
compensation, the provisions contained in the second
schedule may be taken as a guide including the multiplier,
but there may arise some cases, as one in hand, which
B may fall in the category having special feature or facts
calling for deviation from the multiplier usually applicable.”

9. In the case of *Smt. Supe Dei and Ors. v. National Insurance Co. Ltd. and Anr.* [(2002) ACJ 1166 (SC)], the Supreme Court observed as follows:

C “...It is not disputed that though the second schedule to the Act in terms does not apply in the case since the claim is not made under Section 163A of the Act, it serves as a guideline for the purpose of determination of compensation under Section 166 of the Act.”

D 10. In *Abati Bezbaruah v. Dy. Director General, Geological Survey of India and another*, [AIR 2003 SC 1817], this Court has observed:

E “It is now a well settled principle of law that the payment of compensation on the basis of structured formula as provided for under the Second Schedule should not ordinarily be deviated from. Section 168 of the Motor Vehicles Act lays down the guidelines for determination of the amount of compensation in terms of Section 166 thereof. Deviation of the structured formula, however, as
F has been held by this Court, may be resorted to in exceptional cases. Furthermore, the amount of compensation should be just and fair in the facts and circumstances of each case.”

G 11. Thus, though the present claim is made under section 166 of the Motor Vehicles Act, the principles for determining compensation as per Section 163A can be used as a guide. Thus, the Second Schedule can be used as a reference for

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determining compensation in a claim under Section 166 of the Act. A

12. Applications made under Section 166 are to be determined based on the principles laid down in Section 168 of the Act, whereby, the Tribunal must award compensation that is just. B

13. Hence, we are of the view that in the present case, compensation should be awarded on the basis of the principles contained in the Second Schedule to the Act and thus, the Tribunal and the High Court erred in not considering the same. The award of the High Court is thus set aside. C

14. The appellant was earning Rs.4,000/- p.m. which amounts to Rs.48,000/- per year. After deduction of 1/3rd for personal expenses, the annual income of the appellant would be Rs.32,000/-. As per the Second Schedule to the Motor Vehicles Act, as the appellant was aged 48 years, a multiplier of 13 is to be applied. Accordingly, appellant is entitled to compensation of Rs.4,16,000/-. We also award Rs.5,000/- as compensation for hospitalization, special diet, attendant and transportation and Rs.22,209/- for cost incurred in purchase of medicines. Thus, total compensation amounts to Rs.4,43,209/-, which is rounded off to Rs.4,43,000/-. The compensation shall be payable to the appellant along with interest at the rate of 9% by all the respondents jointly and severally. D E

15. Accordingly, the appeal is allowed. F

B.B.B.

Appeal allowed.