

Date Issued: March 15, 2023

File: CS-000932 / 18819

Indexed as: Bhangu v. Inderjit Dhillon and others, 2023 BCHRT 24

IN THE MATTER OF THE *HUMAN RIGHTS CODE*,
RSBC 1996, c. 210 (as amended)

AND IN THE MATTER of a complaint before
the British Columbia Human Rights Tribunal

BETWEEN:

Manoj Bhangu

COMPLAINANT

AND:

Inderjit Dhillon and Avninder Dhillon and Saif Ullah

RESPONDENTS

REASONS FOR DECISION

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| Tribunal Member: | Sonya Pighin |
| Counsel for the Complainant: | Lee Marriner |
| Counsel for the Respondents: | Paul Janzen |
| Dates of Hearing: | March 21 to 25, 2022 |
| Location of Hearing: | Videoconference |

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I INTRODUCTION

[1] Manoj Bhangu [**Mr. Bhangu**] filed a complaint with the BC Human Rights Tribunal [**Tribunal**] alleging that, contrary to s. 13 of the *Human Rights Code* [**Code**], Inderjit Dhillon [**Inderjit**], Avninder Dhillon [**Avninder**], and Saif Ullah [**Mr. Ullah**] discriminated against him regarding his employment based on his ancestry, place of origin, religion, and race. First, Mr. Bhangu alleges Avninder called him a “chamar” while walking away from him at the staff Christmas party [**Staff Party**] of a taxicab company [**Taxi Company**]. I use the term **Slur** instead of “chamar” throughout this decision. Mr. Bhangu further alleges there were two physical altercations at the Staff Party, the first of which involved himself and Inderjit, and the second of which involved himself, Inderjit and Avninder. He alleges that during the second altercation Inderjit and Avninder both called him the Slur, and Mr. Ullah held him back so Inderjit and Avninder would have a chance to attack him. Last, Mr. Bhangu alleges that, contrary to s. 43 of the *Code*, after Mr. Ullah became aware of the complaint, he retaliated against Mr. Bhangu by refusing to assign drivers to Mr. Bhangu’s taxi for coverage.

[2] Inderjit, Avninder, and Mr. Ullah, who I refer to together as the **Respondents**, take the general position that a power struggle amongst minority and majority groups on the Taxi Company’s board of directors [**Board**] is the issue that exists at the Taxi Company, not discrimination. They say at the time of the alleged discrimination, Mr. Bhangu was part of the minority group on the Board, along with Satnam Singh [**Mr. Singh**]; both Inderjit and Avninder were part of the majority group. They deny each of Mr. Bhangu’s allegations and say when Mr. Bhangu arrived at the Staff Party he had already been drinking. Mr. Bhangu and Mr. Singh complained about Board members in power giving them a late invite to the Staff Party [**Short Notice**]. According to the Respondents, Mr. Bhangu became belligerent in the boardroom, Mr. Ullah tried to calm matters, Mr. Bhangu raised his arm and made a fist to strike Inderjit, then Mr. Ullah grabbed Mr. Bhangu and pulled him away from Inderjit. They say that this is when Mr. Bhangu and Mr. Ullah fell. They admit that profanities were exchanged during these events but deny that any of the Respondents used the Slur. They also say that Avninder was in the other room when these events occurred.

[3] The Tribunal conducted a hybrid hearing of the complaint, which involved each of the parties giving their evidence via Microsoft Teams, followed by written closing submissions. The parties delivered their written closing submissions to the Tribunal between March 25 and August 3, 2022, inclusive of submission timeline extensions.

II DECISIONS AND REMEDIAL ORDERS

[4] I find the complaint justified, in part. Mr. Bhangu has not proven all his allegations against Inderjit and Avninder. However, Mr. Bhangu has proven that Inderjit and Avninder discriminated against him contrary to s. 13 of the *Code* based on his ancestry, place of origin, religion, and race when they both used the Slur towards him during a physical altercation at the Staff Party.

[5] I make the following orders regarding Inderjit and Avninder's discrimination against Mr. Bhangu:

- a. In accordance with s. 37(2)(a) of the *Code*, I order Inderjit and Avninder to cease and refrain from committing the same or any similar contravention of the *Code*.
- b. In accordance with s. 37(2)(d)(ii) of the *Code*, I order that Inderjit and Avninder, together, pay to Mr. Bhangu compensation in the amount of \$3,755.81 to compensate Mr. Bhangu for expenses he incurred in relation to the discrimination. My reasons are set out below under "Remedial Orders". Inderjit and Avninder are jointly liable for the payment of this compensation to Mr. Bhangu.
- c. In accordance with s. 37(2)(d)(iii) of the *Code*, I order that Inderjit and Avninder, together, pay to Mr. Bhangu compensation in the amount of \$6,000. My reasons are set out below under "Remedial Orders". Inderjit and Avninder are jointly liable for the payment of this compensation to Mr. Bhangu.

[6] Mr. Bhangu has not proven that Mr. Ullah discriminated against him contrary to s. 13 of the *Code*, or that Mr. Ullah retaliated against him contrary to s. 43 of the *Code*. As such, pursuant to s. 37(1) of the *Code*, I dismiss both the complaint and retaliation complaint against Mr. Ullah.

III WITNESSES, CREDIBILITY, AND RELIABILITY

[7] I have based my findings of fact on evidence submitted by the parties through 12 witnesses, which included evidence put forward by Mr. Bhangu, Inderjit, Avninder, and Mr. Ullah. I do not refer to all the evidence of every witness. However, I have carefully considered all their evidence in reaching my conclusions in this decision. There were various instances where two or more witnesses provided conflicting evidence on significant issues. As such, I have made findings of credibility regarding their conflicting evidence. I have also considered the reliability of each witness's evidence. Credibility and reliability are different. Credibility has to do with the veracity or truthfulness of a witness. Reliability has to do with the accuracy of their testimony, including their ability to accurately observe, recall, and recount what happened. Credibility addresses whether a witness is telling the truth, and reliability is about an honest mistake.

[8] Where I have made decisions about a witness's credibility, I have started from the presumption that the witness is telling the truth: *Hardychuk v. Johnstone*, 2012 BCSC 1359 at para. 10. The factors I have considered include: the presence of any potential motives or biases, whether their evidence is internally consistent, whether independent supporting or contradictory evidence exists either in the form of a corroborating witness's evidence, documentary or other evidence, whether their testimony seems unreasonable, impossible, or unlikely, and how it fits into the general picture revealed by all the evidence: *R. v. J.M.*, 2021 BCCA 263 at para. 53; *Pardy v. Earle* [2011] B.C.H.R.T. no. 101 at para. 12; *Van Hartevelt v. Grewal*, 2012 BCSC 658 at paras. 30–35; *Bradshaw v. Stenner*, 2010 BCSC 1398 at paras. 185–87. Where a witness did not give credible evidence on an issue, I have found that evidence to also be unreliable. However, I have also found that a credible witness's evidence on an issue

was unreliable: *R. v. H.C.*, 2009 ONCA 56 at para. 41. Last, I comment that when making my credibility findings, there were times where I accepted only some of a witness's evidence, consistent with the Supreme Court of Canada's approach to credibility described in *R. v. François*, [1994] 2 S.C.R. 827 at 837.

IV DISCUSSION AND ANALYSIS – DISCRIMINATION COMPLAINT

A. Proving discrimination under s. 13 of the *Code*

[9] To prove discrimination under s. 13 of the *Code*, Mr. Bhangu must establish that:

- a. He is a person with a protected characteristic under s.13 of the *Code*;
- b. He experienced an adverse impact regarding his employment, or a term or condition of his employment; and
- c. His protected characteristic was a factor in the adverse impact he experienced:
Code, at s. 13; *Moore v. BC (Education)*, 2012 SCC 61 [**Moore**] at para. 33.

[10] I note that, under s. 13 of the *Code*, the Respondents are not liable for discrimination if they can prove that more likely than not their actions were justified based on a *bona fide* occupational requirement. However, the Respondents made no arguments about their actions being justified. As such, I do not consider justification in this decision.

B. Preliminary matter – Short Notice of the Staff Party

[11] Before I move on, I comment that the parties have different accounts of whether directors holding a majority of seats on the Board provided Short Notice of the Staff Party to directors who hold a minority of seats on the Board. Various witnesses provided evidence, and the Respondents made extensive submissions, about when and how directors of the Board received notice of the Staff Party date. I accept that some directors raised allegations at the Staff Party about Short Notice. However, to determine whether discrimination occurred I do not need to decide whether those Short Notice allegations are true.

C. Has Mr. Bhangu proven discrimination under s. 13 of the *Code*?

1. *Has Mr. Bhangu proven he is a person with a protected characteristic under s.13 of the Code?*

[12] Mr. Bhangu has proven, through undisputed evidence, his place of origin, ancestry, race, and religion, each of which are protected characteristics under s.13 of the *Code*. As I explain my reasons for concluding this, I describe how I treat the terms place of origin, ancestry, race, and religion. However, I recognise that these terms intersect with one another, and that in some contexts they may be more expansive than how I treat them here. I only set out how I treat these terms to the extent necessary for explaining how I've reached my conclusions.

[13] I find that Mr. Bhangu's place of origin is Punjab, India [**Punjab**]. I treat the phrase "place of origin" as including the geographical place where a person is born, raised, both born and raised, or the place where a person lived before coming to their current geographical area. Mr. Bhangu was born and raised in Punjab, and he lived in Punjab before coming to Canada. Mr. Bhangu moved from Punjab to Canada in September 2000.

[14] I find that Mr. Bhangu's ancestry involves him being a person from the Slur caste. I treat the term ancestry, in its most basic form, as relating to a person's biology, as can be measured through their DNA or genetic make up, and which is passed down from one generation to the next through reproduction. Mr. Bhangu provided uncontested evidence that his family and ancestors are all from the Slur caste.

[15] I find that Mr. Bhangu's religion is Hinduism. The Supreme Court of Canada stated that, defined broadly, religion typically involves a particular and comprehensive system of faith and worship: *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 55, 2004 SCC 47 at para. 39. Mr. Bhangu provided evidence that he is Hindu, he practices the religion known as Hinduism, and he is a member of the Ravidass Sabha in Vancouver, which is a religious organisation.

[16] I find that Mr. Bhangu's race involves him being a person from the Slur caste. I treat the term race as a social construct within which a person or group labels another person or group based on their physiological appearance, their social, cultural, and political make-up, their legal status in society, and other personal attributes. When one person or group assigns a race identity to another person or group, it is an arbitrary process. Race-related labels do not account for genetic or physical variations naturally occurring within biological groups, or for the cultural, social, political, legal status and other identity shifts that occur as persons move about the world, or as time passes and societies evolve. Mr. Bhangu provided evidence regarding the social, political, and legal status aspects of others labelling him as a member of the Slur caste group. Mr. Bhangu provided evidence that as a child his friend's parents kicked him out of a playground and told him that Slur people could not use that playground. Other children chased and beat him up for being a Slur caste member. His friend's parents gave him a glass to drink out of and said in front of him that they would throw the glass out later because he was from the Slur caste, and he had drunk out of it. Last, people kicked him out of temple areas for being from the Slur caste.

2. *Did the events at the Staff Party occur regarding Mr. Bhangu's employment?*

[17] To come within the scope of s. 13 of the *Code*, Mr. Bhangu must demonstrate a sufficient nexus between the events at the Staff Party and his employment context: *British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62, [2017] 2 S.C.R. 795 at paras. 37 and 38. Mr. Bhangu provided evidence and submissions regarding this aspect of the complaint. The Respondents provided no submissions about this aspect of the complaint.

[18] I start with Mr. Bhangu's employment context. I find, based on undisputed evidence, that Mr. Bhangu is an employee of the Taxi Company. His employment is governed by a Purchase and Sale and Operating Agreement [**PSO Agreement**], which illustrates that the Taxi Company had substantial control over Mr. Bhangu's day-to-day operations as a taxicab driver and that he was in an economically dependent relationship with the Taxi Company.

[19] I also find, based on undisputed evidence, that there is a sufficient nexus between the events at the Staff Party and Mr. Bhangu's employment context to bring those events within the scope of s. 13 of the *Code*. Mr. Bhangu attended the Staff Party as a director of the Board and not as an employee. However, the Staff Party occurred at the physical offices of the Taxi Company, where Mr. Bhangu interacted in his employment with operational staff of the Taxi Company on a regular basis. Inderjit and Avninder were both co-workers of Mr. Bhangu's and they had been for almost two decades. Mr. Ullah manages the operational side of the Taxi Company's business. The events that unfolded at the Staff Party occurred in front of the Taxi Company's operational staff and representatives of its affiliated businesses. One of the purposes of the *Code* is to ensure that an employee's work environment provides them a climate of understanding and mutual respect, where they are equal in dignity and rights: *Code* at s. 3(b). This includes a protection against discrimination in an employee's physical place of business, at the hands of their co-workers, and in front of their co-workers at events organised by their employer, regardless of what capacity they attend that location or event in.

[20] Next, I move on to whether Mr. Bhangu has proven the Respondents' alleged conduct at the Staff Party, and whether Mr. Bhangu has proven that he experienced an adverse impact regarding that alleged conduct.

3. The first alleged incident of discrimination: Avninder's use of the Slur while walking away from Mr. Bhangu at the Staff Party

[21] I find that Mr. Bhangu has not proven Avninder used the Slur while walking away from him at the Staff Party. It follows that he has not proven he experienced any adverse impact regarding that alleged conduct. Mr. Bhangu testified that upon his first arrival at the Staff Party, he went and said hello to some co-workers and one of them asked him where his drink was. He told the co-worker it was too early for him; he had worked late the night before and had only recently woken up. Mr. Bhangu gave evidence that the co-worker then asked if he would buy a drink for him, after which Mr. Bhangu said he turned around and heard Avninder say words to the effect of "why are you asking a drink from this Slur guy" or "why are you paying a glass for

this Slur guy?” According to Mr. Bhangu, he ignored the comment instead of causing a scene. Mr. Bhangu provided no corroborating evidence of this incident having occurred.

[22] I do not find Mr. Bhangu’s evidence about this incident credible. First, during cross-examination Mr. Bhangu was not forthcoming on details about the identity of the co-worker he was talking to and getting a drink for. The Respondents asked Mr. Bhangu who he was getting a drink for, and he responded, “four or five co-workers.” They then asked, “Who were they?” and he answered, “They were also shareholders in the [Taxi Company].” They asked again, and he said, “They were my colleagues.” It was not until the Respondents asked Mr. Bhangu sternly “What are their names?” that he responded, “There were four or five who were there,” and provided two of their names. The Respondents then had to ask him again who he was getting the drink for, and finally he provided a name. Second, I accept Avninder’s uncontested evidence about his relationship with Mr. Bhangu prior to the date of the Staff Party, and I find it unlikely that Avninder would have used the Slur towards Mr. Bhangu in those circumstances and at that time when they had no problems with one another prior to the Staff Party, and there is no evidence of any issues arising between them at the Staff Party between the time they arrived at it and the time that Mr. Bhangu says this event occurred. Avninder has known Mr. Bhangu for approximately 18 years, and until the Staff Party their only day-to-day dealings were “hellos.” They had no problems with one another prior to the Staff Party. According to Avninder, he and Mr. Bhangu had some common friends, and attended the same parties together with other shareholders and directors.

4. The second alleged incident of discrimination: The altercation in the boardroom

[23] Before moving on, I note that Mr. Bhangu did not assert in the complaint, or in any of the amendments to it, that Inderjit or Avninder said the Slur during the first altercation, which I heard evidence about having occurred in the boardroom. He only alleged that they used the Slur during a second altercation, which I heard evidence about having occurred in the lobby. However, the Parties treat Mr. Bhangu’s complaint as including an allegation that there was an altercation in the boardroom, where Inderjit or Avninder used the Slur. The Respondents raised no issues about whether unfairness would result from the Tribunal considering this allegation

as part of Mr. Bhangu's complaint, and all the parties provided extensive evidence and submissions on the matter. As such, I consider it here.

[24] I am satisfied, based on the evidence, that a physical altercation occurred in the boardroom. Mr. Bhangu, Mr. Singh, Sukhwinder Sandhu [**Mr. Sandhu**], Inderjit, and Mr. Ullah, each consistently described in their testimonies that an altercation occurred inside the boardroom near the door to the lobby that is closest to Mr. Ullah's office [**Door 1**], and each of them described that altercation coming to an end with Mr. Ullah pulling Mr. Bhangu out of the boardroom through Door 1 into the lobby near Mr. Ullah's office door. Ramendra Sahay [**Mr. Sahay**] also said he saw Mr. Ullah pull Mr. Bhangu through Door 1 from the boardroom into the lobby.

[25] I find that the altercation in the boardroom involved a verbal dispute between Mr. Bhangu and Mr. Singh, and Inderjit and Avninder, followed by a physical altercation that was initially between Mr. Bhangu and Inderjit, and later included Avninder. However, I am not convinced that Inderjit or Avninder called Mr. Bhangu the Slur during the altercation in the boardroom, or that Mr. Ullah participated in it other than to help separate it. Mr. Bhangu, Mr. Singh, and Mr. Sandhu's evidence during direct examination included mostly consistent accounts of what happened in the first altercation. To the extent that their evidence is consistent with one another's evidence, I accept it. At approximately 6:00 p.m. or 6:15 p.m., Mr. Bhangu, Mr. Singh, Inderjit and Avninder were all in the corner of the boardroom near Door 1. They had a verbal dispute about the Short Notice allegation. Mr. Bhangu and Mr. Singh described this verbal altercation consistently. It involved Mr. Bhangu and Mr. Singh expressing to Avninder that as a majority Board member he misused his power by giving Short Notice to Mr. Singh. The verbal altercation escalated when Inderjit grabbed Mr. Bhangu by the shirt, and they both fell to the floor. Inderjit was punching Mr. Bhangu. At some point, Avninder also punched Mr. Bhangu. It ended when Mr. Ullah pulled Mr. Bhangu away through the Door 1 and into the lobby just outside of Mr. Ullah's office door.

[26] Mr. Bhangu provided evidence that before Mr. Ullah pulled him away, he held on to Mr. Bhangu. He gave his opinion that Mr. Ullah did this so that Inderjit and Avninder could have more punches on him. I do not accept this part of Mr. Bhangu's evidence because it is not consistent with the evidence of Mr. Singh, Mr. Sandhu, or Mr. Ullah, each of whom did not describe that Mr. Ullah held Mr. Bhangu in a manner that Inderjit and Avninder could punch Mr. Bhangu. They each described Mr. Ullah pulling Mr. Bhangu away from Inderjit and Avninder to separate the physical altercation that was occurring.

[27] I am not satisfied that the Slur was spoken, or that either Inderjit or Avninder used the Slur, in the first altercation. I start with the evidence of Amrit Chandan [**Mr. Chandan**], who has been a certified translator and interpreter since 1997 and is a member of the Society of Translators and Interpreters of British Columbia. He provided evidence regarding a transcript [**Transcript**] that he made of an audio file that was recorded by Mr. Sandhu from inside the Boardroom during the first altercation [**Audio File 1**]. In that Transcript Mr. Chandan translated Audio File 1 from Punjabi to English, and then he transcribed it, mostly into English. Mr. Bhangu provided both Audio File 1 and the Transcript as evidence. The Slur appears one time in the Transcript. Mr. Chandan attributed it to Male F as follows:

It's too bad man ... It's your party guys ... unintelligible, ... What the hell is this ...? (hustle bustle, ...) [Slur], bastard, sister-fucker

[28] I find Mr. Chandan to be a credible witness. During his testimony, he acknowledged areas in the Transcript where he did not hear something clearly in Audio File 1 and he recorded it as unintelligible. He also acknowledged, in both the Transcript cover page and in his testimony, that Audio File 1 was difficult to understand in many areas and that his attributions of various words to specific speakers in the Transcript may not be accurate.

[29] I accept, based on Mr. Chandan's testimony that he honestly believes that he heard the Slur in Audio File 1, and he depicted that belief in the Transcript. Mr. Chandan's testimony about hearing the Slur in Audio File 1 was consistent throughout his testimony, despite efforts of the Respondents to bring it into question. During cross-examination, the Respondents suggested to Mr. Chandan that with all the background noise, he could not make out the Slur

clearly. Mr. Chandan disagreed with the Respondents and said he clearly heard the Slur. The Respondents also proposed to Mr. Chandan that what he heard was the word “mar” and not the Slur. Mr. Chandan disagreed with this proposal. However, he agreed that the word “mar” is a Punjabi word that means beating, and that it is a word that can mean anything from a simple beating to killing someone, depending on context.

[30] I accept that Mr. Chandan believes he heard the Slur spoken by someone in Audio File 1. However, Mr. Chandan’s testimony on its own has not convinced me that the Slur was in fact spoken during the first altercation. The quality of Audio File 1 is far from crisp, clear and transparent. After the hearing, I listened numerous times to that part of Audio File 1 where Mr. Chandan said he heard the Slur and documented it in the Transcript. This included listening to Audio File 1 multiple times at various play speeds, speaker output levels, and on three different sets of speakers connected to my computer. Audio File 1 depicts the voices of numerous individuals, all of whom are talking over one another with a lot of background noise and muffling. The quality of the sound in Audio File 1 was congested, or difficult to hear details within. Some voices were clearer than others, but many voices were not clear or coherent. I was unable to identify the Slur. I note that Mr. Bhangu submits there was no evidence from any other Punjabi speaker at the hearing about this portion of Audio File 1 being difficult to make out. However, there was also no evidence from any other Punjabi speaker about the Slur being present in the relevant part of Audio File 1. No other witness was asked to listen to Audio File 1 and identify where within it the Slur was spoken. Mr. Bhangu also submits that the difficulty of those who do not speak Punjabi to make out Punjabi words in Audio File 1 does not mean that the interpreter transcribed this portion of the Transcript inaccurately. While I agree that as a non-Punjabi speaker, it is more difficult to make out Punjabi words, I do not agree that because I am a non-Punjabi speaker, I am unable to hear words that are put before me to listen for, in circumstances where I am able to manipulate the play speed of what I am listening to, and re-listen to it over and over again.

[31] Even if I were to accept that someone said the Slur during the recording of Audio File 1, there is no evidence showing Inderjit or Avninder said it. The Transcript does not identify who each of the distinct persons speaking in Audio File 1 were. Mr. Chandan testified that in making the Transcript he attributed words to persons based on what he interpreted as distinct speakers and conversation groups within Audio File 1. He used Male A, Male B, Male C, etcetera to refer to individuals within what he understood to be one conversation group. He used 1st Male, 2nd Male, 3rd Male, etcetera to refer to individuals within the next conversation group. He attributed words in the Transcript to “A person” and “Another person” where he interpreted those words as being spoken by someone outside of a conversation group. During cross-examination, Mr. Chandan acknowledged that his attribution of the Slur to Male F may not be perfect. Even if it was perfect, there is no evidence that either Inderjit or Avninder are Male F. Mr. Ullah provided uncontested evidence about which words in the Transcript depict words he said in Audio File 1. Mr. Chandan attributed those same words to three different persons: Male E, A person, and Male F. Other than Mr. Ullah’s evidence about words in Audio File 1 that he said, I have no evidence from any witness regarding which words in Audio File 1 or the Transcript allegedly belong to whom. Last, I listened to Audio File 1 alongside both Inderjit and Avninder’s recorded testimonies in hopes it would assist me in identifying their voices in Audio File 1. I was not able to do so.

[32] I also find that Mr. Bhangu did not hear either Inderjit or Avninder use the Slur in the first altercation while it was occurring. First, Mr. Bhangu did not say in his direct testimony that he recalls Inderjit or Avninder using the Slur during the first altercation. He only said they used the Slur in the second altercation. I recognise that during cross-examination the Respondents made suggestions to Mr. Bhangu that Avninder did not use the Slur towards him during the first altercation, and Mr. Bhangu responded, “I heard Avninder say those words in the boardroom.” However, I do not believe this part of Mr. Bhangu’s testimony. Mr. Bhangu did not explain his statement by telling the Tribunal when he heard Avninder use the Slur or provide any contextual evidence that can paint a picture of Avninder’s use of the Slur. The Respondents also suggested to Mr. Bhangu that neither Inderjit nor Avninder used the Slur at all during the night of the Staff Party. Mr. Bhangu responded, “I heard it repeatedly three or four times,” and that

he heard it in the audio file. I treat Mr. Bhangu's statement that he heard it repeatedly three or four times as him stating that he heard it three or four times during the second altercation, which is consistent with his direct testimony about the second altercation. Later in cross-examination, the Respondents again proposed to Mr. Bhangu that he did not hear anyone use the Slur at the Staff Party, and Mr. Bhangu responded that it's in the audio recording where he heard those words. Mr. Bhangu's repetitive reference to the audio file and audio recording as the place where he heard the Slur, rather than his direct recollections of hearing it, lead me to believe that he did not hear the Slur during the first altercation. I treat Mr. Bhangu's references to an audio file and an audio recording as references to Audio File 1. I note that nobody played Audio File 1 for Mr. Bhangu at the hearing. As such, he did not identify where in Audio File 1 he heard Avninder use the Slur or explain how Audio File 1 aligns with his personal recollections of the first altercation.

[33] Mr. Singh specifically said he did not remember anything Inderjit or Avninder said during the first altercation. As such, his evidence about the first altercation does not help me here. Mr. Sandhu provided evidence that in the first altercation he heard Avninder say in Punjabi "beat this Slur, sister-fucker, beat him," and he heard someone say, "get me off from this Slur." Mr. Sandhu did not provide evidence of who he heard say the latter phrase. So, I do not find that part of his evidence helpful. I also do not accept Mr. Sandhu's evidence about what he heard Avninder say because during cross-examination, the Respondents asked Mr. Sandhu again about hearing Avninder say the Slur in the first altercation. Mr. Sandhu did not confirm what he said in direct examination about Avninder. Rather, he responded that he did not see it, but he heard "someone" say "get Mr. Bhangu off" and that he heard the Slur. The level of detail he provided changed drastically from his direct testimony to cross-examination.

5. The third alleged incident of discrimination: The altercation in the lobby

[34] Now I move on to the altercation that occurred in the lobby somewhere between Door 1 of the boardroom and the door of Mr. Ullah's office. First, I am convinced by Mr. Bhangu's evidence that an altercation occurred in that location because it is consistent with the evidence of Mr. Singh, Mr. Sandhu, and Mr. Sahay, each of whom describe an altercation occurring there.

Second, Mr. Bhangu, Mr. Singh, and Mr. Sandhu each provided uncontested evidence that two days after the Staff Party they asked Mr. Ullah to show them video footage of the Staff Party that the Taxi Company's security cameras recorded in the area where the second altercation occurred. Mr. Bhangu, Mr. Singh, and Mr. Sandhu each said Mr. Ullah told them the video footage was saved but did not show it to them. Mr. Ullah gave evidence that he did not want to get involved in the dispute and that he told them he would not play it for them, but he would play it at the board meeting, and that the video could be saved for only a month or month and a half. If nothing controversial occurred in the area covered by the security cameras, there would be no reason for Mr. Bhangu, Mr. Singh, and Mr. Sandhu to ask to view it, or for Mr. Ullah to deny them access to it.

[35] Next, I find that both Inderjit and Avninder were engaged in the second physical altercation with Mr. Bhangu, during which they both used the Slur towards Mr. Bhangu. Mr. Bhangu, Mr. Singh, and Mr. Sandhu each provided consistent evidence about what happened during the second altercation, and I find their evidence more convincing than the Respondents' evidence. I will come back to why I am not convinced by the Respondents' evidence later.

[36] Mr. Bhangu, Mr. Singh, and Mr. Sandhu each provided evidence that Mr. Bhangu was standing in the lobby area when Inderjit ran toward Mr. Bhangu from the direction of Mr. Ullah's office, attacked him, and they both went to the floor. Mr. Bhangu said he got on top of Inderjit, and Inderjit said, "save me from this Slur guy" then Avninder joined the fight saying, "yes he is a Slur kill him." Inderjit then said, "kill this Slur," and Avninder said, "yes, he's a Slur beat him up." According to Mr. Bhangu, Inderjit and Avninder said these phrases three or four times in Punjabi. Mr. Singh saw Inderjit attack Mr. Bhangu, they both went down. He described that they were going up and down on top of each other. Mr. Singh saw Avninder run over and strike Mr. Bhangu with his leg, and he heard both Inderjit and Avninder call Mr. Bhangu names, including one of them saying "kill him Slur" in Punjabi, and Inderjit saying, "sister fucker" and the Slur approximately three times. Mr. Sandhu saw Inderjit come out of Mr. Ullah's office and start the second altercation by punching Mr. Bhangu. He saw Mr. Bhangu sitting on top of Inderjit when Avninder came, used the Slur again, and punched Mr. Bhangu in the back of his

head. Mr. Sandhu heard Inderjit say from the bottom, “please get me off from this Slur,” and Avninder use the Slur in reference to Mr. Bhangu.

[37] I am also convinced by the evidence of Mr. Bhangu, Mr. Singh, and Mr. Sandhu about how the second altercation ended. Each of their evidence about this is consistent with each other’s evidence. Mr. Bhangu testified that Mr. Ullah and Mr. Singh broke up the altercation. Mr. Bhangu said he demanded Mr. Ullah call the police. Mr. Singh said he pushed Inderjit away, and he heard Mr. Bhangu tell Mr. Ullah to call the police, but Mr. Ullah denied doing so. Mr. Singh said he then told a staff member to call the police, and he went downstairs. Mr. Sandhu said he took Avninder away towards the reception area. According to Mr. Sandhu, someone called the police, and they arrived ten to fifteen minutes later.

6. Did Mr. Bhangu experience adverse impacts regarding the events at the Staff Party?

[38] Mr. Bhangu experienced adverse impacts, in the form of physical injuries, in relation to both physical altercations. Mr. Bhangu gave evidence that he experienced physical injuries to his head and mouth because of the physical altercations. Mr. Bhangu’s direct evidence about physical injuries is externally consistent with the evidence given by Mr. Singh, Mr. Sandhu, and Ms. Mahl, each of whom said they saw physical injuries on Mr. Bhangu either during the altercations, or after the Staff Party. Mr. Bhangu’s evidence is also consistent with a **Medical Note** that he provided, dated April 14, 2020. The Medical Note sets out that, on December 20, 2018, a doctor at the Collingwood Medical Clinic treated Mr. Bhangu for contusions and abrasions to his head, contusions to his right eye and to the left side of his back. I find the Medical Note to be the most reliable evidence about the extent of Mr. Bhangu’s physical injuries because it is an independent description of the extent of those injuries.

[39] Mr. Bhangu also experienced adverse psychological impacts in relation to Inderjit and Avninder’s conduct towards him at the Staff Party. Mr. Bhangu provided uncontested evidence about those psychological impacts. He provided evidence that he experienced shock and embarrassment after each of the physical altercations, and feelings of insult, humiliation, embarrassment, worry, and death for at least a few weeks afterwards. When Mr. Bhangu left

the Staff Party, he went to Tim Hortons with some other shareholders, and they spent a few hours together. They spent at least some of that time debriefing about what had happened. Mr. Bhangu then went home and spent additional time discussing what had happened with his wife and children. Mr. Bhangu described it being very difficult for him to explain what happened to his children. In addition, Mr. Bhangu provided evidence that he was not able to sleep for a couple of weeks after the Staff Party. He also found it very difficult to go to work and interact with his colleagues who had observed the events at the Staff Party because he felt insulted and humiliated in front of them and being around them reminded him of what had happened.

7. Why I find that the Respondents lack credibility in their evidence about the Staff Party

[40] Next, I turn to the evidence provided by the Respondents, and I explain why I do not believe their version of events about what happened at the Staff Party. Only Inderjit provided evidence about how the alleged single altercation started. Avninder and Mr. Ullah did not witness an altercation start. Saurabh Bahl [**Mr. Bahl**] provided evidence on behalf of the Respondents but did not directly observe any altercation. Mr. Bahl said he heard a bang from near the back door to downstairs, ran up the stairs and saw Mr. Bhangu on the floor on top of Mr. Ullah in the corner outside Mr. Ullah's office. He said Mr. Ullah's arms were around Mr. Bhangu, and that nobody else was in the lobby at the time. Gurmail Chinna [**Mr. Chinna**] also provided evidence on behalf of the Respondents but did not directly observe any altercation. According to Mr. Chinna, he was outside in the parking lot when he heard noise coming from upstairs. He ran upstairs believing there was a fight going on and saw Mr. Ullah telling everyone to go outside. According to Mr. Chinna, he saw Mr. Singh and Mr. Sandhu standing together, another shareholder was by Door 1, Mr. Bhangu and Mr. Ullah were standing together near Mr. Ullah's office door, and Avninder was near the second door to the boardroom.

[41] According to Inderjit, inside the boardroom near Door 1 at approximately 6:00 pm another shareholder of the Taxi Company said to him that Mr. Bhangu, Mr. Singh, and Mr. Sandhu were all talking about the Short Notice. Inderjit said to that shareholder that this is not

the time to discuss the Short Notice issue, which should be discussed at the next Board meeting. Inderjit said he didn't know where Mr. Bhangu, Mr. Singh, or Mr. Sandhu were standing at the time. According to Inderjit, he then felt someone touch his right shoulder, and it turned out to be Mr. Bhangu. He said Mr. Bhangu asked him what he was clarifying to the other shareholder, they exchanged a few words, and Mr. Bhangu pulled the collar of Inderjit's shirt, grabbing it with one hand. Inderjit said his response was to put his hand up towards Mr. Bhangu as if to say, "stay away," and his hand touched Mr. Bhangu. He said Mr. Bhangu responded by punching him or pushing him forcefully and they both fell. When asked to describe how Mr. Bhangu punched or pushed him, Inderjit said Mr. Bhangu was grabbing him with his fist, and it hit his body on the chest. He said that this is when they fell, and Mr. Bhangu landed on top of him before somebody grabbed Mr. Bhangu from him and he was free to get up. According to Inderjit, when he got up, he was just standing there, and Mr. Bhangu was not there with him. He said he got up and he stayed in the boardroom, until everybody started to move out of it through Door 1, and they all fell on each other. He said this took seconds. At this time, Inderjit said he could see Mr. Ullah in the lobby with Mr. Bhangu, chatting. When asked "Do you remember how you were able to get up?" Inderjit answered, "I don't remember, but Mr. Ullah he pushed me into his office." Inderjit gave evidence that he stayed in Mr. Ullah's office until the end, when the police opened the door to ask if he was okay and he said he was ok. Inderjit denied using the Slur during his interactions with Mr. Bhangu.

[42] Avninder provided evidence that he was outside the second door of the boardroom, near the reception desk which is across the lobby from Mr. Ullah's office, talking to a staff member when he "heard the bang," looked towards Mr. Ullah's room, and saw people on the floor. He said Inderjit was underneath then there was Mr. Bhangu and then on the side was Mr. Ullah. Avninder said he did not see anything occur inside the boardroom. He said he tried to move towards the lobby when another person stopped him, and Mr. Ullah put Inderjit into the boardroom. According to Avninder, at this time Mr. Bhangu was standing beside the door to Mr. Ullah's office. Immediately after providing this evidence, Avninder's legal counsel said to him, "So, you say Inderjit Dhillon winds up in the manager's office?" and Avninder said "yes, he did." His legal counsel then asked, "and Mr. Bhangu's outside?" and Avninder responded, "yes,

he is outside.” Avninder adds that afterwards, Mr. Ullah pushed Inderjit into his office, Mr. Ullah came out and said, “everybody out, everybody out, party is over.” According to Avninder, Mr. Bhangu was saying “get him out, get him out.” He then said the police arrived and they got everyone out of the building. Avninder denied making any threats towards Mr. Bhangu or referring to Mr. Bhangu as the Slur at the Staff Party.

[43] Mr. Ullah gave evidence that approximately 15 minutes before the physical altercation, Mr. Sahay went to sit in his office. Mr. Ullah was back and forth to his office, and when the fight started, he was at the reception desk talking to the receptionist and comptroller. He heard a big bang and shouting, and he ran to the boardroom door closest to his office where he saw Mr. Bhangu sitting on someone beside the boardroom table, with his back to Mr. Ullah, trying to punch with his fist. Mr. Ullah said he started shouting “hey, hey, hey,” while he grabbed Mr. Bhangu from behind, and he started pulling Mr. Bhangu back telling him to calm down. In cross-examination, Mr. Ullah described further that he caught Mr. Bhangu by putting his arms under Mr. Bhangu’s arms and catching him in the chest. In Mr. Ullah’s direct evidence he said Mr. Bhangu was resisting saying “let go, let go.” Mr. Ullah dragged Mr. Bhangu towards his office door, Mr. Bhangu stopped resisting, and Mr. Ullah let him go. Mr. Ullah said after the altercation they were both standing there and within seconds everyone started to come out of the boardroom, falling on each other just outside his office door. Then, Mr. Ullah said he was on the bottom, Mr. Bhangu was on top of him, and others were on top of them. Next, he said he remembers seeing Mr. Bhangu on his left side, and Inderjit on his right side, he pushed Inderjit inside his office door, closed it and told everyone the party is over and they need to leave, or he will call the police. Mr. Ullah testified that he did not hear the Slur spoken during these events, he did not see Inderjit punch Mr. Bhangu while he was pulling Mr. Bhangu away, and he did not see Avninder either in the boardroom or in the lobby after things moved out there. He also said he did not go near the other boardroom door near the reception desk or see who was there during this time.

[44] I do not believe the evidence of Inderjit, Avninder, and Mr. Ullah about only one altercation occurring. First, none of evidence about a single physical altercation explains the evidence of multiple witnesses who saw two altercations occur. Second, the Respondents' evidence about a single altercation where Mr. Bhangu attacked Inderjit and then the altercation ended quickly makes no sense alongside the Medical Note, or the evidence of Mr. Bhangu, Mr. Singh, Mr. Sandhu, and Ms. Mahl about Mr. Bhangu's physical injuries during and after the altercations. Third, considering that Avninder and Mr. Ullah both say they were near the reception desk, their respective evidence about hearing a bang, and what they each saw afterwards does not line up. Avninder said he heard the bang and immediately afterwards saw people on the floor outside the boardroom, with Inderjit underneath Mr. Bhangu. Mr. Ullah said he heard the bang come from inside the boardroom, and then he broke up the altercation before people started piling out of the boardroom falling, with Mr. Bhangu falling on top of him not on top of Inderjit. Fourth, the Respondents' evidence does not align with the evidence of Mr. Bahl that nobody else was in the lobby at the time Mr. Bhangu was on top of Mr. Ullah near Mr. Ullah's office door. Last, the Respondents' versions of events make no sense alongside uncontested evidence that Mr. Ullah denied Mr. Bhangu, Mr. Singh, and Mr. Sandhu access to the Taxi Company's video footage of the lobby area. If nothing occurred in the lobby area, and there was no second altercation, then there would have been no dispute about what happened in the lobby area for Mr. Ullah to not want to get involved in.

[45] There are also issues of internal inconsistencies in both Inderjit and Avninder's evidence. First, Inderjit said that Mr. Bhangu punched him, or pushed him, and he then said Mr. Bhangu grabbed him with his fist, which hit Inderjit's chest. Punching, pushing, and grabbing are all very different things, and I find it difficult to understand how some of those things could have occurred concurrently as described by Inderjit. Avninder's evidence is also internally inconsistent as he said the altercation ended with Inderjit being put into the boardroom by Mr. Ullah. Immediately afterwards, his legal counsel asked him "So, you say Inderjit Dhillon winds up in the manager's office" and Avninder responded, "yes, he did."

[46] I note that the Respondents say Audio File 1 supports their evidence of a single altercation. They point to the Transcript, which they say is replete with examples of individuals trying to diffuse the situation and suggesting the issue should be discussed later at a Board meeting. The Transcript depicts what Mr. Chandan identified as five separate speakers stating things that could be consistent with a person trying to diffuse the situation. Those statements are as follows, and they are not depicted consecutively in the Transcript of the approximately 6 minute long Audio File 1, but rather sprinkled throughout it:

| | |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Another person 2 | “let it go brothers ... I” |
| Another person 3 | “Unintelligible ... Now, see it tomorrow ... see it day after” |
| 6 th Male | “You shouldn’t just keep talking” |
| 5 th Male | “Talk about it in the meeting...Tell it in the meeting ...” “Come, leave it buddy,” “leave it” multiple times, and “Hey Surinder, come on ... leave it” |
| 6 th Male | “I already said that ... I said twice to stop talking on this topic ... I said that on that day too” |
| Another person 5 | “Let us end it today ... We can have the discussion tomorrow” |

[47] I am not convinced by the Respondents’ argument that Audio File 1 supports their evidence. Nobody provided evidence about who the above-noted five speakers are, or which of them is allegedly Inderjit. Likewise, nobody provided evidence about how the words in the Transcript fit in to the evidence given by Inderjit. Last, Inderjit did not provide evidence of any person other than himself trying to diffuse the situation at the time the altercation started.

[48] The Respondents also submit that the Tribunal should accept the Respondents’ evidence over the evidence of Mr. Bhangu because Mr. Bhangu and Mr. Singh gave evidence about things that Inderjit and Avninder allegedly said at the Staff Party that are not in the Transcript. I do not find this part of their submission helpful because Mr. Bhangu does not purport that the Transcript documents all communications between the parties at the time of

the physical altercations. In addition, the Transcript itself depicts areas where people were talking in Audio File 1, but Mr. Chandan could not hear clearly what they were saying.

[49] Last, I note that the Respondents have submitted if I find that Inderjit or Avninder used the Slur toward Mr. Bhangu, I should treat it as a single slur that does not amount to discrimination in the context. In making this argument, they relied on *Falou v. Royal City Taxi Ltd.* [2014] BCHRTD No. 149. I am not convinced by their argument on this point because, as set out above, I do not find that Inderjit or Avninder used the Slur only once as a single slur. I find they both used it consecutive times during the second altercation.

8. Has Mr. Bhangu proven his protected characteristics were a factor in the adverse impacts he experienced?

[50] Before I discuss whether Mr. Bhangu has proven his protected characteristics were a factor in the adverse impacts he experienced, I note that the Respondents provided no submissions on this point. As such, I consider only Mr. Bhangu's submissions in this part of my decision. I also note that I consider any connection between Mr. Bhangu's protected characteristics and the adverse physical impacts he experienced separate from the connection between his protected characteristics and the psychological impacts he experienced.

[51] I find that Mr. Bhangu has not proven his protected characteristics were a factor in the adverse physical impacts he experienced. Before I continue, I comment that while Mr. Bhangu has not proven this connection, when I discuss the appropriate remedy to order and the severity of the discrimination that occurred, I do consider the fact that Inderjit and Avninder used the Slur towards Mr. Bhangu during a physical altercation.

[52] I find that Mr. Bhangu being a member of the Slur caste was not a factor in either of the physical altercations occurring. The physical altercations are the causes of Mr. Bhangu's physical injuries. The physical altercations occurred in relation to a dispute between Mr. Bhangu and Mr. Singh, and Inderjit and Avninder over the alleged Short Notice. Mr. Bhangu submits that Inderjit did not attack Mr. Singh despite Mr. Singh being the one who started the Short Notice arguments, and that he did not attack Mr. Singh because Avninder and Inderjit did

not perceive Mr. Singh to be a member of an inferior caste, as they perceived Mr. Bhangu. Mr. Bhangu further submits that Inderjit and Avninder singled him out because they considered him a member of the Slur caste, an inferior, lower caste in the caste system who could not argue with them. The evidence before me does not support a finding that this is true. Mr. Bhangu provided none of his own evidence regarding either Inderjit or Avninder's castes, or evidence to show that the Slur caste is inferior, or lower in the caste system to Inderjit or Avninder's caste. In the contrary, Inderjit provided uncontested evidence in cross-examination that he is a member of the Jatt caste, and that the Jatt caste is not higher than the Slur caste. It is undisputed that Inderjit and Avninder are brothers. As such, I am prepared to infer that they are both from the Jatt caste. Mr. Bhangu has not proven that Inderjit or Avninder considered him to be a member of an inferior, lower caste to them, who could not argue with them, or that they singled him out because of his caste in the physical altercations. I also comment on Mr. Bhangu's submission that Avninder's use of the Slur toward him early on during the Staff Party demonstrates that Mr. Bhangu's protected characteristics were factors in his adverse treatment. I have already found that Mr. Bhangu has not proven Avninder used the Slur towards him at the Staff Party prior to his use of the Slur towards Mr. Bhangu during the second altercation.

[53] I find that Mr. Bhangu has proven his protected characteristics were a factor in the adverse psychological impacts he experienced. He has already proven that Inderjit and Avninder used the Slur towards him in the second altercation. I find that Mr. Bhangu has also proven there is a connection between his protected characteristics and the Slur, and that Inderjit and Avninder's use of the Slur during the second altercation is part of the reason he experienced adverse psychological impacts.

[54] Next, I explain the basis on which I've concluded that Mr. Bhangu has proven a connection between his protected characteristics and the Slur. Mr. Bhangu provided the **Yengde Report**, which sets out the expert opinion of Suraj Yengde [**Mr. Yengde**] on the Slur, including its relation to a person's ancestry, place of origin, religion, and race. The Respondents did not dispute, and I accept, the content in the Yengde Report as proven facts.

[55] Mr. Bhangu has already proven his family and ancestors come from the Slur caste, and that he is from Punjab, India. The Yengde Report provides evidence of a connection between the Slur caste and both Mr. Bhangu's ancestry and place of origin. The Yengde Report describes that a "caste is essentially a hierarchical division of society grouped by the descent-based lineage. One is born into a particular and bequeaths the same to succeeding generation." Mr. Yengde describes that the origin of the caste system can be traced back to India, and that it dates back to 1200 BC. A person is born into a particular caste group and dies in it; He or she inherits it and bequeaths it to the next generation.

[56] Regarding the connection between Mr. Bhangu's religion and the Slur caste, Mr. Bhangu provided uncontested evidence that only people who are Dalit can be members of the Ravidass Sabha community. The Slur caste is a subgroup of the Dalit caste. Mr. Bhangu also provided uncontested evidence that people in India would know he is from the Slur caste based on the temple that he goes to for washing.

[57] Last, regarding the connection between Mr. Bhangu's race and the Slur caste, I come back to the Yengde Report, which describes cultural, social, political, and legal status aspects of the race-based Slur caste label. The Yengde Report describes Dalit peoples as being outside the hierarchy of human order, not worthy of a place in human society. It sets out that the Dalit could not own resources, have similar access to societies, or deliberate on matters of concern to them. They had to live a life of dependency wrought with humiliation and insults. The Dalit were given demeaning names and jobs to ensure they realised their lowest position in society. They were unapproachable, unseeable, and untouchable, and they were worse off than slaves. The Yengde Report further describes the Slur caste as "the caste that treats the hide." It sets out that dealing with carcasses made members of the Slur caste untouchable in society because their work was sinful, and polluting.

[58] Next, I explain how I concluded that Mr. Bhangu has proven Inderjit and Avninder's use of the Slur is connected to the adverse psychological impacts he experienced. Mr. Bhangu submits that the Yengde Report confirms people use the Slur to insult and humiliate individuals considered to be members of the Slur caste, and to remind an individual of their lowest caste

position. He submits that the Slur carries with it the weight of historical discrimination against Dalits. The Yengde Report supports Mr. Bhangu's submission. It explains that non-Slur caste peoples use the Slur to insult or humiliate individuals of the Slur or Dalit caste, to "deny an equal agency to the other" or "as an epithet to remind the lowest caste position of the individual." I note that the Yengde Report refers to the use of the Slur by non-Slur caste peoples, and not the use of the Slur by persons of a higher caste than those in the Slur caste. I am prepared to accept that it doesn't matter whether the person using the Slur is from another caste or not. It is the use of the Slur by a person who is not a member of the Slur caste that gives the use of the Slur the insulting or humiliating connotation.

[59] Mr. Bhangu provided uncontested evidence of how the use of the Slur towards him by Inderjit and Avninder adversely impacted his psychological health, reminding him of his negative experiences growing up in Punjab. Inderjit and Avninder are of the Jatt caste, making them non-Slur caste peoples. I am prepared to accept that the adverse psychological impacts Mr. Bhangu experienced in relation to Inderjit and Avninder's use of the Slur in the second altercation is connected to Mr. Bhangu's position as a member of the Slur caste and both Inderjit and Avninder being non-Slur caste peoples.

V RETALIATION COMPLAINT

A. Proving retaliation under s. 43 of the *Code*

[60] Section 43 of the *Code* states that:

43 A person must not ... impose any pecuniary or other penalty on, deny a right or benefit to or otherwise discriminate against a person because that person complains or is named in a complaint, might complain or be named in a complaint

[61] To be successful in the retaliation complaint, Mr. Bhangu must provide evidence that demonstrates it is more likely than not:

- a. Mr. Bhangu either intended to file a complaint with the Tribunal, or did file a complaint with the Tribunal and Mr. Ullah knew of his intentional or actual filing of that complaint;
- b. In response to Mr. Bhangu's intentional or actual filing of that complaint Mr. Ullah acted in a manner listed in s. 43 of the *Code*; and
- c. There is a sufficient connection between Mr. Bhangu's intentional or actual filing of the complaint and Mr. Ullah's conduct, which Mr. Bhangu can prove by illustrating either that Mr. Ullah intended to retaliate against him, or that from the point of view of a reasonable complainant, apprised of the facts at the time of Mr. Ullah's conduct, it can be reasonably perceived that Mr. Ullah engaged in his conduct in retaliation: *Gichuru v. Pallai*, 2018 BCCA 78 at para. 58.

B. Scope of the retaliation complaint

[62] Mr. Bhangu's retaliation complaint was not clear at the outset of the hearing. As such, before I move on, I discuss the scope of Mr. Bhangu's complaint, which I treat as being an allegation that commencing some time in January 2019, Mr. Ullah became aware of Mr. Bhangu's complaint, and in retaliation Mr. Ullah instructed the Taxi Company's operations supervisor or manager to stop providing Mr. Bhangu replacement drivers for his taxi.

[63] On January 10, 2019, Mr. Bhangu alleged in his complaint that Mr. Ullah instructed the operations supervisor not to put drivers on his taxi if he needed a day off. On January 17, 2020, Mr. Bhangu filed an amendment alleging that it was after the incident at the Staff Party that Mr. Ullah discriminated against him by instructing the operations supervisor not to place drivers on his taxi. I note that Mr. Bhangu did not allege in the complaint or his amendment to it, that Mr. Ullah knew Mr. Bhangu was going to file the complaint, or that Mr. Ullah's alleged actions were in response to Mr. Bhangu's intentional or actual filing of the complaint.

[64] On October 5, 2020, Mr. Bhangu filed a second amendment, in which the details of his retaliation allegation changed. He stated under the heading "After the Staff Party Incident and

Retaliation” that it was after he filed the complaint, on January 10, 2019, that Mr. Ullah began instructing the Taxi Company’s operations manager to stop arranging for daily lease drivers to drive his taxi. He further alleged that Mr. Ullah had not done so before Mr. Bhangu filed the complaint, and that Mr. Bhangu had never had any difficulty in having shifts covered previously.

[65] At the commencement of the hearing, I treated Mr. Bhangu’s October 5, 2020 amendment as setting out the scope of the retaliation complaint. However, as the hearing commenced, Mr. Bhangu provided direct testimony, along with two audio recordings, about requests he made for driver coverage in the days immediately following the Staff Party and Mr. Ullah allegedly denying him that coverage. That evidence relates to events in late-December 2018, which is before Mr. Bhangu filed the complaint. Mr. Bhangu also provided direct testimony that after the Staff Party incident, the Taxi Company’s responses to his requests for shift coverage changed, and that it was between January and March 2019 when this occurred.

[66] As Mr. Bhangu’s direct testimony continued to progress, he gave evidence about events that occurred, upon which the Tribunal can draw an inference about when Mr. Ullah would have first learned about the complaint. This part of Mr. Bhangu’s evidence appears to be supportive of his October 5, 2020 allegations, rather than the allegations he made in his original complaint and January 17, 2020 amendment to that complaint. Mr. Bhangu provided the Tribunal a copy of minutes [**Minutes**] from a meeting that he had attended on January 7, 2019, known as the Taxi Company’s Social and Welfare society meeting. The Respondents objected to the Tribunal admitting those Minutes into evidence on the basis that they lacked relevance and contained hearsay. During Mr. Bhangu’s submission on admissibility of the Minutes, he argued that the Minutes are relevant to showing when Mr. Ullah became aware of his intention to file the complaint, because the date of the Minutes shows when colleagues of Mr. Ullah became aware of Mr. Bhangu’s intent to file the complaint. Mr. Bhangu explained that in his closing submissions he will ask the Tribunal to draw an inference between when colleagues of Mr. Ullah became aware of his intent to file the complaint, and when Mr. Ullah became aware of it.

[67] At this point in Mr. Bhangu's direct testimony, I brought Mr. Bhangu back to his evidence about driver request refusals in late-December 2018. I then asked him to clarify the scope of his retaliation complaint to the Tribunal. Mr. Bhangu confirmed that the retaliation complaint consists of an allegation that Mr. Ullah refused to provide him driver coverage, in retaliation related to his complaint, commencing in January 2019.

[68] During cross-examination, and after Mr. Bhangu had already confirmed that the scope of his retaliation complaint relates to the period commencing in January 2019, Mr. Bhangu provided evidence that, immediately after the second altercation at the Staff Party, he made a statement out loud that he would sue in human rights. It appears to me that Mr. Bhangu provided this evidence to support the allegations in his original complaint about Mr. Ullah retaliating against him in late-December 2018, immediately after the Staff Party.

[69] I comment that even if the scope of Mr. Bhangu's complaint were to include the period of late-December 2018, I do not find Mr. Bhangu to be a credible witness on this point. First, Mr. Bhangu gave his evidence on this point out of context, so it stood out as suspect to me. The Respondents brought Mr. Bhangu's attention to a written statement that he had prepared and provided to the police on January 6, 2019, setting out his version of the events that occurred at the Staff Party. The Respondents proposed to Mr. Bhangu that he had a couple of weeks after the Staff Party to think about what he was going to say to the police. Mr. Bhangu responded "yes," and then said that he was in shock and didn't know what to do. He then paused briefly and added that he "told after the second fight that I am going to sue you guys in the human rights, and that I will report to the police." Second, Mr. Bhangu's evidence about making this statement after the second physical altercation is inconsistent with his direct evidence, where he described the second altercation ending with him telling Mr. Ullah to call the police, Mr. Ullah refusing to do so, Mr. Ullah challenging to see him one-on-one, then another person calling the police, the police arriving and telling Mr. Bhangu to go home, and Mr. Bhangu leaving to the parking lot. I provided Mr. Bhangu an opportunity to give further evidence in re-examination, to clarify anything that arose during cross-examination. Mr. Bhangu did not explain his statement in cross-examination about what happened at the end of the second

altercation further, or add detail to it so that I could understand better how his statement during cross-examination fits into the rest of his evidence. Third, this part of Mr. Bhangu's evidence in cross-examination does not fit in to the general picture that he paints about the importance of the date on the Minutes from the Social and Welfare Society meeting. Fourth, there is no corroborating evidence to support this part of Mr. Bhangu's evidence. While corroborating evidence isn't always necessary, without it in this case I find Mr. Bhangu's evidence on this point unconvincing. Last, in Mr. Bhangu's closing submissions, he did not refer to his alleged announcement at the end of the second altercation about "suing in the human rights." If Mr. Bhangu had made this announcement at the end of the second altercation, surely, he would have brought my attention back to it in his closing submissions to explain when and how Mr. Ullah became aware of his complaint.

C. Has Mr. Bhangu proven retaliation under s. 43 of the *Code*?

1. When did Mr. Ullah become aware of Mr. Bhangu's complaint?

[70] I am unable to determine the exact date on which Mr. Ullah became aware of Mr. Bhangu's complaint. However, I find that the earliest he was aware of it was sometime in January 2019, most likely close to January 10, 2019, when Mr. Bhangu filed it.

[71] Mr. Bhangu submitted that Mr. Ullah was aware that he was going to make the complaint because Mr. Bhangu discussed his intention to do so with co-workers, including at the Taxi Company's Social and Welfare Society meeting on January 7, 2019. Mr. Bhangu further submitted that it was well known at the Taxi Company and part of the "taxi driver gossip" that he was pursuing a complaint related to the events at the Staff Party.

[72] Mr. Ullah denies retaliating against Mr. Bhangu but admits that in January 2019 he heard about Mr. Bhangu making a human rights complaint and he heard the complaint discussed by others at the Taxi Company.

[73] Mr. Bhangu provided uncontested evidence, that on January 7, 2019, he attended the Taxi Company's Social and Welfare Society meeting; 40 or 50 other people also attended that meeting, including other drivers and shareholders of the Taxi Company, but not Mr. Ullah. Mr. Bhangu provided evidence that at that meeting he described what happened at the Staff Party to those who were present. However, Mr. Bhangu did not provide evidence on the specific details about what he told them. I treat Mr. Bhangu's statement that he "described what happened at the Staff Party," as Mr. Bhangu saying that he described the content of his January 10, 2019 complaint to those present at the meeting. Mr. Bhangu submitted to the Tribunal that it should draw an inference between the date of the Social and Welfare Society meeting and the date that Mr. Ullah became aware of the complaint. I consider the timing between the January 7, 2019 meeting, the date on which Mr. Bhangu filed the complaint being January 10, 2019, and Mr. Ullah's evidence that he heard about the complaint in January 2019. Based on this evidence, I am prepared to infer that in January 2019, likely close to the time that Mr. Bhangu filed the complaint, Mr. Ullah became aware of the complaint.

[74] I have already set out that I do not accept Mr. Bhangu's evidence that he "told after the second fight that I am going to sue you guys in the human rights, and that I will report to the police." Mr. Bhangu has provided no further evidence on which I could conclude that Mr. Ullah knew before January 7, 2019 that Mr. Bhangu intended to file a complaint with the Tribunal.

2. Did Mr. Ullah act in a manner listed under s. 43 of the Code?

[75] Before I move on, I comment that I do not consider Mr. Bhangu's evidence about requests he made for driver coverage in late-December 2018 because the content of that evidence falls outside the scope of the retaliation complaint and pre-dates Mr. Ullah's knowledge of Mr. Bhangu's intention to file, and actual filing of, the complaint.

[76] Mr. Bhangu submits that Mr. Ullah denied his requests for a replacement driver for his taxi after Mr. Ullah had knowledge of Mr. Bhangu's intention to file, and actual filing of, the complaint, which I have already found to be some time in January 2019, likely close to the time Mr. Bhangu filed the complaint.

[77] Mr. Ullah submits that he did not instruct any Taxi Company staff to deny Mr. Bhangu's requests for a replacement driver in January 2019 or afterwards.

[78] I find that Mr. Bhangu has not proven Mr. Ullah refused to provide him driver coverage for his taxi in the period commencing January 2019 and afterwards. The evidence adduced by Mr. Bhangu about driver coverage requests he made during this period falls short of establishing this aspect of his retaliation complaint.

[79] First, the evidence provided by Mr. Bhangu in his direct testimony about Mr. Ullah denying him driver coverage requests between January and March 2019 was vague. It was not specific enough to establish any conduct of Mr. Ullah. Mr. Bhangu provided direct evidence that after the incidents at the Staff Party he noticed "a little, lot of changes" to how the Taxi Company handled his driver coverage requests. He said he would ask "them" to cover the shift, and "they" would never cover his car on that day, so he would have to drive and work on that day. He did not explain who "them" or "they" are. According to Mr. Bhangu's direct testimony, this occurred from January until March 2019, when the Taxi Company's car coverage system changed, and the Taxi Company no longer required him to seek its permission to put his own relatives or friends on as drivers of his taxi. Mr. Bhangu provided no evidence in his testimony about specific incidents after he filed his complaint, where he requested driver coverage, and the Taxi Company refused him that coverage. He also did not provide any evidence in his testimony, or otherwise, regarding Mr. Ullah's conduct in relation to driver coverage requests that he made after filed his complaint.

[80] Mr. Bhangu called Ranjit Brar [**Mr. Brar**], who has been the operations manager at the Taxi Company since July 2020, to provide evidence in support of his retaliation complaint. Mr. Brar provided uncontested evidence about how the Taxi Company documents its driver coverage requests and assignments into car cover records, which are set out in a table format. In a car cover record, the "Car #" column sets out the number of the taxi that the owner is requesting driver coverage for. The "Time" column sets out the time that the owner's shift starts, and the "Days of Coverage" column sets out the number of days, or dates that the owner

needs driver coverage for. The “Assigned Driver ID #” column sets out the driver identification number of the person the Taxi Company assigns as a driver to the taxi.

[81] Various Taxi Company staff make notations on car cover records, including the operations manager and wicket staff. A driver may request car coverage by completing a car coverage request form, or by making a request either in person at the wicket or by phone to dispatch. There are many reasons that Taxi Company staff may document a change to a car cover record. For example, Taxi Company staff may white out a notation in the “Assigned Driver ID#” column and write “moved to [another car#]” over that white out in circumstances where the Taxi Company has assigned a driver for the taxi but then the owner decides to drive the taxi themselves. In such circumstances the Taxi Company’s policy is to assign that replacement driver to the next available taxi in the queue. There are also various reasons columns in a car cover record may remain blank. For example, sometimes there are “priority cars” that aren’t getting coverage so the Taxi Company may assign them a driver ahead of other taxis in the queue.

[82] Mr. Bhangu provided a **Car Cover Record**, which documents driver coverage requests made by taxi owners to the Taxi Company on February 22, March 21, April 11, and April 26, 2019. Below is an excerpt from that Car Cover Record, in which Car # 77 is a reference to Mr. Bhangu’s taxi:

| Date of Car Cover Record | Car # | Time | Days of Coverage | Assigned Driver ID# | Assigned Date | Additional notations in other columns of the Car Cover Record |
|---------------------------------|--------------|-------------|-------------------------|-------------------------------------------------------------------|----------------------|----------------------------------------------------------------------|
| February 22, 2019 | 77 | 4 | Fri - Sat | Owner | | |
| March 21, 2019 | 77 | 4 | *Blank | Owner will drive (*Notation is on what appears to be whiteout) | | Moved to 23 |
| April 11, 2019 | 77 | 4 | *Blank | *Blank | | |
| April 26, 2019 | 77 | 4 | *Blank | Moved to 114 (*Notation is on what appears to be whiteout) | | |

[83] Mr. Bhangu did not adduce evidence that explains how the Car Cover Record supports his retaliation complaint. For example, Mr. Bhangu provided no evidence about:

- a. What should have been in the column for “Days of Coverage,” which is blank in three of the entries related to Mr. Bhangu’s requests for driver coverage. This leaves missing information about the requests he made for coverage and what those requests entailed.
- b. Who he spoke to about each of his requests on the Car Cover Record, which leaves me no information on who made the notations in it.
- c. What his conversations with Taxi Company staff were about his requests on the Car Cover Record, which leaves me no understanding of the reasons for the notations, and no information on the role Mr. Ullah may have played in making decisions about Mr. Bhangu’s requests in those instances.
- d. What happened on two of the dates in the Car Cover Record where Mr. Bhangu requested driver coverage, and the Car Cover Record has what appears to be whited out areas in the “Assigned Driver ID#” columns, with notations that say “Owner will drive” on top of that white out.

[84] In summary, Mr. Bhangu has not provided evidence that brings his allegations about Mr. Ullah’s conduct outside the realm of conjecture or speculation. He has not proven that Mr. Ullah acted in a manner contrary to s. 43 of the *Code*.

3. *Is there a sufficient connection between Mr. Bhangu’s intentional or actual filing of the complaint and Mr. Ullah’s conduct?*

[85] I have already decided that Mr. Bhangu has not proven Mr. Ullah refused to provide him driver coverage for his taxi in the period commencing January 2019 or afterwards. As such, there is also no connection between Mr. Bhangu’s intentional or actual filing of the complaint and Mr. Ullah’s conduct.

VI REMEDIAL ORDERS

[86] I have now explained why I find that Mr. Bhangu has proven Inderjit and Avninder acted contrary to s. 13 of the *Code* in their treatment of him. I have also explained why I find that Mr. Bhangu has not proven either his complaint, or retaliation complaint, against Mr. Ullah.

[87] Next, I explain how I decided that the orders I've made regarding compensation are appropriate in this case.

A. Compensation under s. 37(2)(d)(ii) of the *Code* for expenses

[88] I start with why I order under s.37(2)(d)(ii) of the *Code* that Inderjit and Avninder pay \$3,755.81 to Mr. Bhangu. Mr. Bhangu sought an order that the Respondents compensate him for the expenses he incurred obtaining the Yengde Report and Transcript. In support of this request, Mr. Bhangu provided a wire transfer receipt that proves he paid \$2,743 for the Yengde Report, and a receipt from Indica Translations Inc. that proves he paid \$1,012.81 for the Transcript. Together, this cost Mr. Bhangu \$3,755.81. He submitted that the Yengde Report was necessary for him to illustrate the concept of caste, and the use of the Slur as a caste-based insult. He further submitted that the Transcript was necessary for him to prove that the Slur was used at the Staff Party. The Respondents made no submissions about Mr. Bhangu's request for compensation under s. 37(2)(d)(ii) of the *Code*.

[89] The Tribunal has made orders to compensate parties for expenses related to expert reports at a hearing: *Gichuru v. The Law Society of British Columbia (No. 9)*, 2011 BCHRT 185 at paras. 387–91; *Biggings obo Walsh v. Pink and others*, 2018 BCHRT 174 at paras. 139–142. I have been provided no reason to depart from doing so in this case. The Tribunal has also made orders to compensate complainants for expenses incurred by them to attend hearings before it: *Cassidy v. Emergency and Health Services Commission and another (No.3)*, 2009 BCHRT 110 at paras. 102–106 (remedy confirmed in *Cassidy v. Emergency Health Services Commission and another (No. 5)*, 2013 BCHRT 116 at para. 262). The Yengde Report was necessary for illustrating the nature of the caste system and how the Slur fits into it, which is relevant to my findings that: Mr. Bhangu has proven that he has protected characteristics under s.13 of the

Code, that he experienced adverse psychological impacts in relation to Inderjit and Avninder's conduct toward him, and that there is a connection between his protected characteristics and those adverse psychological impacts. The Transcript assisted me in putting together the events that unfolded at the Staff Party.

B. Compensation under s. 37(2)(d)(iii) of the *Code* for injury to dignity, feelings, and self-respect

[90] Next, I move on to the order I made under s. 37(2)(d)(iii) of the *Code* and explain how I concluded that \$6,000 is an appropriate remedy for injury to Mr. Bhangu's dignity, feelings, and self-respect.

[91] Mr. Bhangu sought an order that the Respondents pay him \$35,000 compensation for injury to his dignity, feelings, and self-respect. He submitted that the discrimination he experienced was a combination of verbal insults and a serious physical attack, and that he had no realistic option but to continue working at the Taxi Company and was as such a "captive audience" for discrimination. Mr. Bhangu provided three cases in support of his position:

- a. *Garneau v. Buy-Rite Foods and others*, 2015 BCHRT 77 [**Garneau**], in which the Tribunal ordered the respondent to pay the complainant \$15,000;
- b. *Pardy v. Earl*, 2011 BCHRT 101 [**Pardy**], in which the Tribunal order the respondent to pay the complainant \$22,500; and
- c. *Davis v. Sandringham Care Centre and another*, 2015 BCHRT 148 [**Davis**], in which the Tribunal ordered the respondent to pay the complainant \$35,000.

[92] The Respondents submitted that any compensation in the form of damages that the Tribunal orders Inderjit or Avninder to pay to Mr. Bhangu should not exceed \$10,000 to \$15,000. I treat their reference to damages as a reference to compensation for any injury to Mr. Bhangu's dignity, feelings, and self-respect. The Respondents provided no explanation for why they believe this is an appropriate amount of compensation. They also provided no cases that could help me understand why they believe this amount of compensation is appropriate.

[93] Section 37(2)(d)(iii) of the *Code* does not set out factors the Tribunal must consider when making an award under that section. Instead, the quantification of any award is solely within the discretion of the Tribunal: *Gichuru v. Law Society of British Columbia*, 2014 BCCA 396 at para. 71. Mr. Bhangu pointed to three factors for the Tribunal to consider when making an order under that section of the *Code*, which include the nature of the discrimination, Mr. Bhangu’s vulnerability, and the effect of the discrimination on Mr. Bhangu: *Araniva v. RSY Contracting and another (No.3)*, 2019 BCHRT 97 at para. 132. The Tribunal has a consistent practice of referring to these three factors when determining an appropriate award to order. I have been provided no reason to depart from that practice in this case. However, I note that the Tribunal has shifted away from using the term vulnerability in describing this analysis because use of that term may act to erase or obscure underlying causes of a person’s “vulnerability.” Instead, the Tribunal has shifted to using the term social context, which includes looking at an individual’s circumstances in a social and historical context: *Ms. K v. Deep Creek Store and another*, 2021 BCHRT 158 at paras. 139–141. I take that same approach in this case.

1. *Nature of the discrimination*

[94] I begin with the nature of the discrimination that Mr. Bhangu has proven in this case. In assessing the nature of the discrimination, the Tribunal has considered whether the discrimination that occurred was one instance of discrimination, or whether it persisted over time, repeatedly: *Loiselle v. Windward Software Inc. (No. 3)*, 2021 BCHRT 80 [*Loiselle*] at para. 9. It has also considered whether there is a power imbalance between the parties: *Loiselle* at para. 10. I consider those factors here.

[95] Mr. Bhangu has proven that Inderjit and Avninder called him the Slur three or four times each during a two-on-one physical altercation initiated by Inderjit in the employment environment, in front of their colleagues. The discrimination in this case was a single series of Slurs that occurred over a short period of time. Those Slurs did not continue for a long period of time or occur repeatedly outside of the second altercation. This differentiates the discrimination in this case from the discrimination in *Davis*. In *Davis*, the discrimination involved the employer of the complainant questioning her about her mental disability for a period of

two hours, and then forcing her to attend the hospital in relation to her mental disability, placing her on an involuntary medical leave for approximately a month, keeping her off work, and eventually terminating her employment. With respect to duration, the discrimination experienced by Mr. Bhangu is also different from the discrimination in *Pardy*. In *Pardy*, a comedian made two separate sets of discriminatory remarks towards the complainant during his comedy set in relation to her sexual orientation. When his comedy set finished, he made additional discriminatory comments to her, still in front of other patrons in the establishment where it occurred. In doing so, the respondent hovered over the complainant, grabbed her sunglasses, and broke them. In the months following the incident, he made more public discriminatory comments about the complainant in both a newspaper article and a YouTube video. His acts were public, repeated, and occurred over a period of months. In this case, the duration of the discrimination is closer to that which occurred in *Adorgloh v. Seasons Foodmart and Feng Lin*, 2013 HRTO 1201 [**Adorgloh**], which involved a respondent uttering a racist comment to the complainant in the workplace. In *Adorgloh*, the Human Rights Tribunal of Ontario said that a single discriminatory comment, or a few comments made within a short time generally call for modest damages, which at that time in Ontario ranged between \$1000 - \$2500: at para. 40. Similarly in *Martinez Johnson v. Whitewater Concrete Ltd. and others (No. 2)*, 2022 BCHRT 129 [**Martinez**] the individual respondent called the complainant discriminatory names at work on two separate occasions. In that case, this Tribunal adopted the *Adorgloh* approach in its determination of an award under s. 37(2)(d)(iii) of the *Code* and ordered the respondents to pay to the complainant compensation of \$2,500: at paras. 84–89. I consider the approaches set out in *Adorgloh* and *Martinez* to duration of the discrimination.

[96] I also consider that the discrimination in this case involved Inderjit and Avninder making discriminatory slurs towards Mr. Bhangu during a physical altercation that Inderjit initiated. When a person initiates a physical altercation and then makes discriminatory slurs during that interaction, it is more severe than when a person makes such slurs without the element of violence. In this respect, the nature of the discrimination in this case is more serious than that which occurred in *Adorgloh* or *Martinez*, and closer to that which occurred in *Pardy*.

[97] Next, I turn to the power relationship between the parties. At the time of the discrimination, Mr. Bhangu was part of a minority group, and Inderjit and Avninder part of a majority group on the Board, which had power to make decisions that could negatively impact Mr. Bhangu's employment. However, Inderjit and Avninder alone did not have any power over decisions regarding Mr. Bhangu's employment. Their relationship is different from the relationship between the parties in *Davis* or *Garneau*, where the complainants were employees under the direct supervision of the respondents. The power relationship between the parties in this case is closer in nature to *Martinez*, where the individual respondent was not in a position of authority over the complainant. Instead, they were colleagues.

2. Social context within which the discrimination occurred

[98] Next, I move on to Mr. Bhangu's social context. Mr. Bhangu's social context includes that he is an immigrant to Canada who came from a place where he experienced caste discrimination. A part of why Mr. Bhangu moved to Canada includes that he and his family can live without caste discrimination. Mr. Bhangu has also been a shareholder and driver with the Taxi Company for approximately 20 years. Mr. Bhangu has financially invested in the Taxi Company, and his main source of income comes from his work as a driver. I note that in Mr. Bhangu's closing submissions he submitted that the adverse impacts he experienced also relate to Inderjit and Avninder perceiving Mr. Bhangu as a person from an inferior caste to theirs. I have already stated that I am not convinced on the evidence before me that this is more than speculation on Mr. Bhangu's part.

3. Impact of the discrimination

[99] Last, I consider the impact of the discrimination on Mr. Bhangu. I accept Mr. Bhangu's evidence that he experienced shock and embarrassment immediately after the discrimination, and feelings of insult, humiliation, embarrassment, worry, and death for at least a few weeks after the discrimination. However, I do not accept on the evidence before me, that the discrimination impacted Mr. Bhangu's dignity, feelings, or self-respect beyond a few weeks.

[100] Mr. Bhangu provided uncontested evidence that he experienced shock and embarrassment immediately after the discrimination occurred. Immediately after the discrimination, Mr. Bhangu went to Tim Hortons with some other shareholders, and they spent a few hours together. They spent at least some of that time debriefing about what had happened. Mr. Bhangu then went home and spent additional time discussing what had happened with his wife and children. Mr. Bhangu described it being very difficult for him to explain what happened to his children.

[101] Mr. Bhangu also provided uncontested evidence about the feelings he experienced in relation to the discrimination after it occurred. Mr. Bhangu was not able to sleep for a couple of weeks afterwards. He found it very difficult to go to work and interact with his colleagues who had observed the discrimination. He felt insulted and humiliated in front of them and being around them reminded him of the discrimination. Mr. Bhangu did not provide evidence regarding how long his feelings of insult or humiliation in front of his colleagues lasted, or how long afterward being around them continued to remind him of the discrimination. According to Mr. Bhangu, at some point he told his kids that he does not want to live in this world anymore due to the humiliation and he worried about what “would happen to his kids if he did something.” He did not provide evidence of when this occurred, so I am unable to make any findings about how long after the discrimination he experienced those unwanted thoughts. Last, Mr. Bhangu described observing his kids not wanting to go to Taxi Company events anymore and said this was a disturbing experience. Ms. Mahl also provided evidence that herself and Mr. Bhangu did not continue to attend social events put on by the Taxi Company, which is something they did before the discrimination took place.

[102] The impact of the discrimination on Mr. Bhangu differs somewhat from the impact of the discrimination the complainants experienced in *Garneau, Pardy, and Davis*. In *Garneau*, the complainant experienced feelings of powerlessness and being less than human. While the severity of the impact in *Garneau* and in this case are similar, the complainant in *Garneau* provided evidence that the duration of that impact lasted over a period of approximately two years. In *Pardy*, the complainant described feeling humiliation, shock, and embarrassment,

which is like what Mr. Bhangu described experiencing. However, the complainant in *Pardy* also felt threatened and afraid of the respondent at the time of the discrimination, the discrimination aggravated her pre-existing condition of generalized anxiety disorder with panic attacks, and it caused her to develop a post traumatic stress disorder. She provided evidence of long-lasting severe impacts that she experienced from the discrimination. In *Davis*, the impact of the discrimination was more severe than what Mr. Bhangu has proven he experienced. The immediate impacts on the complainant lasted at least a month, which is the duration of time that the discrimination actively took place over. She lost confidence in her work and suffered extreme gut pain due to nervousness regarding the discrimination. She became highly anxious and was unable to work for approximately six weeks after the discrimination ended. When she did return to work, she felt unwelcomed and not wanted.

[103] In summary, the discrimination was short in duration but involved violence which exacerbates the severity of it. Mr. Bhangu was not in a position of powerlessness in relation to the respondents. However, his history of caste-based discrimination in India intensified the severity of the impact he experienced regarding the discrimination. Mr. Bhangu provided evidence that his dignity, feelings, and self-respect were impacted negatively but that evidence was vague, and he did not provide enough evidence to show those impacts lasted more than a couple of weeks.

VII CONCLUSION

[104] The complaint is justified, in part. Mr. Bhangu has not proven all his allegations against Inderjit and Avninder. However, he has proven that Inderjit and Avninder discriminated against him contrary to s. 13 of the *Code* based on his ancestry, place of origin, religion, and race when they both used the Slur towards him during a physical altercation at the Staff Party.

[105] Mr. Bhangu has not proven that Mr. Ullah discriminated against him contrary to s. 13 of the *Code*, or that Mr. Ullah retaliated against him contrary to s. 43 of the *Code*.

Sonya Pighin
Tribunal Member
Human Rights Tribunal