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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of Decision: 08.11.2024

Jaswant Kaur and others Appellants

Vs.

Bansi Lal and others Respondents

CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. S.K. Sandhir, Advocate
for the appellants.

Ms. Mamta Singla Talwar, DAG, Haryana.

SANJAY VASHISTH, J.(Oral)

1. Instant appeal has been filed by the appellants/claimants for enhancement of the amount of compensation by modifying the award dated 07.04.2004, passed by learned Motor Accident Claims Tribunal, Ludhiana (for short, ‘learned Tribunal’), whereby in claim petition bearing MACT No.39/19 of 1984, compensation amount to the tune of Rs.96,000/- was ordered to be paid to the appellants, on account of death of ‘Harnek Singh’ (deceased).
2. The factual aspect explained in the claim petition is that, on 17.10.1983, at about 5:20 p.m., Harbant Singh, Dalip Singh, Harnek Singh, Gurmukh Singh and Darshan Singh were travelling in Bus bearing No.HRX-

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625, driven rashly and negligently and due to over speeding, respondent No.1 lost control over the bus in question, which resultantly turned turtle, causing death of Harbant Singh, Dalip Singh, Harnek Singh, Gurmukh Singh. Passenger-Darshan Singh had also received injuries. Thus, the claimants through their respective claim petitions prayed for grant of compensation by considering their claim under Section 166 of the Motor Vehicles Act, 1988.

3. In the written statement filed by respondent No.1, he denied the allegations, however admitted the fact that he was driving the bus bearing registration No.HRX625, belonging to Haryana Roadways and also explained that while making efforts to save the cyclist on the road, said accident had taken place, thus, tried to explain his innocence.

4. In the written statement filed by respondents No. 2 and 3 (Haryana Roadways) being owner of the Bus, it was admitted that accident took place near Sahnewal Police Station on Ludhiana Khanna road at about 5:30 p.m., on 17.10.1983. Registration and ownership of the Bus was also admitted.

5. In case of the appellants, learned Tribunal framed following three issues:

“(i) Whether Harnek Singh died on account of rash and negligent driving of Bus bearing No. HRX-625 by respondent No.1?

“(ii) To what amount of compensation, if any, are the claimants entitled and from whom?

“(iii) Relief.”

6. Learned counsel for the appellants/claimants submits that earlier learned Tribunal had passed the award, concluding that Harbant Singh,

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Harnek Singh, Gurmukh Singh, Dalip Singh and Darshan Singh sustained injuries in the accident in question, however, same did not result from any rash and negligent driving, and no fault could be attributed to the driver of the Bus i.e. respondent No.1. Therefore, claimants were not held entitled for the compensation amount.

7. When claimants filed their appeal before the High Court (Punjab and Haryana High Court), on 04.04.2003 following observations were recorded therein:

“ It is clear from the DDR (Ex. P3) that it contains serious interpolations. It is true that Virinder Singh and Prem Singh had suffered injuries in the accident but this fact only fixes their presence but does not enhance their credibility. It is also significant that the positive case of the respondents was that the bus was being driven at a speed of 60/65 Ks, - per hour when the two cyclists had suddenly come in front of the bus and the accident had occurred. To my mind, if the bus was being driven at this speed, such serious injuries and deaths would not have occurred. The facts of the case, thus, clearly spell out that the bus was being driven at a high speed. To my mind, therefore, the findings of the Tribunal on issue No. 1 needs to be reversed and is accordingly reversed. The Tribunal has not examined the other issue with regard to quantum of compensation.

These appeals are accordingly allowed, the award of the Tribunal dated 15.2.1986 is set aside and the matter is remitted to the Motor Accident Claims Tribunal, Ludhiana which shall determine the compensation payable to the claimants on the basis of evidence that is already on record.”

8. For the purpose of determining adequate amount of compensation payable to the claimants, findings recorded by learned Tribunal in paragraph No.9 are as herebelow:

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“9. Jaswant Kaur claimant deposed on oath that Harnek Singh deceased was her husband and he was 40 years old and he died in the accident on 17.10.1983. He is survived by her, Jaswinder Kaur, aged 16 years, Daljit Kaur aged 10 years, Dharminder Singh aged 14 years and Jagjit Singh aged 9 years and Chand Kaur mother. Harnek Singh was a driver on a truck and he used to earn Rs. 2000/- per month He had the driving licence. No other evidence has been led by the claimants. As such, the income of the deceased Harnek Singh can be taken to be around Rs. 1200/- per month and he must be spending Rs. 400/- for himself and the dependency of the claimants comes to be Rs. 800/- and the annual dependency comes to Rs. 9600/-. Considering the age of the deceased, ten is the most appropriate multiplier and the total compensation comes to Rs. 96000/-. Thus, the claimants Jaswant Kaur and other are entitled to claim compensator to the tune of Rs. 96000/- from the respondents in equal shares and the respondents are liable to pay the same jointly and severally being the driver and owner of the bus in question.”

9. Learned counsel for the appellants argues that though the limited compensation amount as initially claimed by the claimants has been ordered by learned Tribunal, however said set of amount is not sufficient towards adequate compensation. He also submits that the prayer of the claimants for seeking compensation on account of death of Harnek Singh is pending adjudication for more than two decades, but learned Tribunal failed in adhering to the spirit of the beneficial legislation and therefore, awarded limited compensation amount of Rs.96,000/-. He further submits that it is upon the Courts to examine the amount computed as ‘just compensation’. By



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adopting such an approach several times Hon'ble Apex Court has laid down the law to apprise the Courts dealing with the accident claim cases, that it has power to grant compensation beyond the amount claimed in the claim petition by the claimants. Thus, counsel for the appellants submits that the principle of law laid down by Hon'ble Apex Court can be applied in the present case also.

10. Learned counsel for the appellants places reliance upon the following judgment of Hon'ble Apex Court:

(i) 'Rajesh and others VS. Rajbir Singh and others', 2013(3) RCR (Civil) 170.

(ii) 'Kavita Balothiya and others Vs. Santosh Kumar and another' 2024 ACJ 1639.

(iii) 'Meena Devi Vs. Nunu Chand Mahto @ Nemchand Mahto and others, 2022(4)RCR (Civil) 553.

(iv) 'Chandramani Nanda Vs. Sarat Chandra Swain and another', 2024(4) R.C.R (Civil) 614.

Thus by applying the principle of law for awarding 'just compensation' and even in cases where the claimed amount in claim petition is inadequate to do complete justice, counsel for the appellant prays for enhancement of the compensation amount.

11. On the other hand, learned State counsel initially expresses her inability to assist the Court. However, after being granted some time to go through the findings recorded in the award, she argued that the compensation, already awarded by learned Tribunal is appropriate, and any enhancement

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would be beyond the scope of civil rights under the civil law. Also submits that further claim of enhanced compensation suffers with the principle of estoppel. Therefore, strongly opposes the prayer for enhancement of the compensation amount. However, state counsel is unable to controvert the legal proposition laid down by Hon'ble Apex Court and as being argued by the appellants.

12. After hearing learned counsel for the parties and also going through the cited judgments, this Court finds that in the case of **Rajesh's case (supra)**, Hon'ble Apex Court has dealt with the enabling power of the Tribunal, keeping in view the purpose of legislation. Relevant paragraphs No.13,14,15, 16 and 19 of the judgment are reproduced herebelow:

"13. Whether the Tribunal is competent to award compensation in excess of what is claimed in the Application under Section 166 of the Motor Vehicles Act, 1988, is another issue arising for consideration in this case. At Paragraph 10 of Nagappa's case (supra), it was held as follows :-

"10. Thereafter, Section 168 empowers the Claims Tribunal to "make an award determining the amount of compensation which appears to it to be just". Therefore, only requirement for determining the compensation is that it must be 'just'. There is no other limitation or restriction on its power for awarding just compensation."

*14. The principle was followed in the later decisions in **Oriental Insurance Company Limited v. Mond. Nasir and another, 2009(3) RCR (Civil) 849 : 2009(4) Recent Apex Judgments (R.A.J.) 525 and in Ningamma and another v. United India Insurance Company Limited, 2009(3) RCR (Civil) 435:***



2009(4) Recent Apex Judgments (R.A.J.) 164 : 2009(13) SCC 710.

15. Underlying principle discussed in the above decisions is with regard to the duty of the Court to fix a just compensation and it has now become settled law that the Court should not succumb to niceties or technicalities, in such matters. Attempt of the Court should be to equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries of life on account of the discontinuance of the income earned by the victim.

16. There is another reason why the Court should award proper compensation irrespective of the claim and, if required, even in excess of the claim. After the amendment of the Act by Act No. 54 of 1994 with effect from 14.11.1994, the Report on motor vehicle accident prepared by the police officer and forwarded to the Claims Tribunal under Sub-section (6) of Section 158 has to be treated as an Application for Compensation. Section 158 (6) of the Act reads as follows :

"158. Production of certain certificates, licence and permit in certain cases.-

(1) to (5) xxx xxx xxx

(6) As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer-in-charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and, where a copy is made available to the owner, he shall also within thirty days of receipt of such



report, forward the same to such Claims Tribunal and insurer."

17.*xxx*

18.*xxx*

19. *In a report on accident, there is no question of any reference to any claim for damages, different heads of damages or such other details. It is the duty of the Tribunal to build on that report and award just, equitable, fair and reasonable compensation with reference to the settled principles on assessment of damages. Thus, on that ground also we hold that the Tribunal/Court has a duty, irrespective of the claims made in the Application, if any, to properly award a just, equitable, fair and reasonable compensation, if necessary, ignoring the claim made in the application for compensation."*

Further in **Kavita Balothiya's case(supra)**, observations made in "Mona Baghel and others Vs. Sajjan Singh Yadav and others (Civil Appeal @ Out of SLP(C) 29207/2018 were noticed by Apex Court. Relevant paragraph No.5 and 7 of the judgment are reproduced herebelow:

"5. Learned counsel for the appellants has brought to our notice the decision of this Court in "Mona Baghel & ors. vs. Sajjan Singh Yadav & Ors. in (Civil Appeal @ out of SLP(C) NO. 29207/2018) Wherein the Court has observed as under:

"The law is well settled that in the matter of compensation, the amount actually due and payable is to be awarded despite the claimants having sought for a lesser amount and the claim petition being valued at a lesser value.

Our view, is fortified by the decision of this Court in the Case of Ramla and Others Versus National Insurance



Company Limited and Others 2019 2 SCC 192, wherein, it is held as under :

"Though the claimants had claimed a total compensation of Rs. 25,00,000 in their claim petition filed before the Tribunal, we feel that the compensation which the claimants are entitled to is higher than the same as mentioned supra. There is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 is to award "just compensation". The Motor Vehicles Act is a beneficial and welfare legislation. A "just compensation" is one which is reasonable on the basis of evidence produced on record. It cannot be said to have become time-barred. Further, there is no need for a new cause of action to claim an enhanced amount. The Courts are duty-bound to award just compensation. (See the Judgments of this Court in (a) Nagappa v. Gurudayal Singh, (b) Magma General Insurance Co. Ltd. v. Nany Ram, (c) Ibrahim v. Raju)."

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7. In view of the above decision, if the appellants are entitled to a higher amount than claimed, they are entitled to be paid the actual compensation as determined by the court."

Also in **Meena Devi's case (supra)**, law laid down by three judges Bench in *Nagappa v. Gurdayal Singh and others (2003) 2 SCC 274* has been discussed to say that the power of Tribunal/Court to award compensation is without any restriction and it can exceed the amount so

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claimed. Relevant paragraph No.14 of the judgment is reproduced herebelow:

“14. At this stage, it is necessary to clarify that as per the decision of a Three-Judge Bench of this Court in Nagappa v. Gurdayal Singh and others (2003) 2 SCC 274, it was observed that under the MV Act, there is no restriction that the Tribunal/Court cannot award compensation exceeding the amount so claimed. The Tribunal/Court ought to award 'just' compensation which is reasonable in the facts relying upon the evidence produced on record. Therefore, less valuation, if any, made in the Claim Petition would not be impediment to award just compensation exceeding the claimed amount.”

Moreover, in **Chandramani Nanda's case (supra)** the judgment of Meena Devi's case (supra) was considered and relevant paragraph No. 20 is reproduced herebelow:

“20. An argument is raised by learned counsel for the insurance company that the appellant has initially claimed a sum of 730,00,000/-and since the same having been awarded to him by the High Court, no further enhancement is possible. We cannot accept this argument and it is duly rejected. It is a settled proposition of law, that the amount of compensation claimed is not a bar for the Tribunal and the High Court to award more than what is claimed, provided it is found to be just and reasonable. It is the duty of the Court to assess fair compensation. Rough calculation made by the claimant is not a bar or the upper limit. Reference in this regard can be made to



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the judgment of this Court in the case of Meena Devi vs. Nunu Chand Mahto.”

13. Being guided by the observations given by Hon’ble Apex Court, this Court is left with no confusion to make it clear that the limited amount claimed by the claimants in their claim petition cannot be considered as a bar to consider the right of the claimants for adequate and just amount of compensation. Rather, Courts are not precluded from calculating and awarding the adequate amount of compensation, to which claimants are actually entitled. Thus, the decision regarding the compensation amount would be made hereafter, taking into consideration all the four judgments discussed by this Court.

Entitlement of claimants for the ‘just compensation’ amount:-

14. Thus, asserts that for the purpose of assessing the compensation amount, learned Tribunal has taken the age of deceased as 40 years and the monthly income as Rs.2,000/- per month as a Truck driver, with the facts already noticed by learned Tribunal in calculating the compensation amount of Rs.96,000/-. However, he submits that claimants were/are entitled to an enhanced amount of compensation, in accordance with the view taken by Hon’ble Apex Court in recent judgments i.e. **‘National Insurance Company Limited V. Pranay Sethi & Ors.’, 2017(4) RCR (Civil) 1009** and **Smt. Sarla Verma & Ors. V. Delhi Transport Corporation & Anr., (2009) 6 SCC 121**, thus, prays for an enhanced amount of compensation.

15. It is not in dispute that deceased –Harnek Singh was working as Truck driver and earning Rs.2,000/-per month. From the evidence on record, it

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stands established that the deceased was aged about 40 years and as per Pranay Sethi's case (supra), addition of 25%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.2,000/- +Rs.500/- (25% of Rs.2,000/-)=Rs.2,500/- per month.

16. Out of the same, keeping in view the number of dependents i.e. widow, and four children, $\frac{1}{4}^{\text{th}}$ is to be deducted on account of 'personal expenses', which is to the extent of Rs.625/- and the residue amount works out to be Rs.1,875/- per month and annual comes to be Rs.22,500/-. Considering the age of the deceased, as per **Smt. Sarla Verma's case (supra)**, the appropriate multiplier to be applied in the present case is '15' and after, so applying this multiplier, the loss of dependency comes to be Rs.22,500/- X 15=Rs.3,37,500/-.

17. Rest of the parameters are assessed and calculated in accordance with the judgment of this Court titled as **Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006, D/d. 07.07.2023) : Law Finder Doc Id # 2270482**, which is in consonance with the settled proposition of law laid down by the Apex Court in **Pranay Sethi's case (supra)**, and **Smt. Sarla Verma's case (supra)** and **Smt. Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 229 : Law Finder Doc Id #2081014**.

18. Claimants are entitled for Rs. 25,000/- as compensation under the head of funeral expenses and Rs.20,000/- towards loss of estate. Loss of consortium is to be awarded to the tune of Rs.48,400/- each to the all five claimants in the instant appeal.

19. For the sake of convenience, amount of compensation assessed and calculated by this Court is produced below in a tabular form:

Sr. No.	HEADS	Compensation awarded by the High Court
1.	Income	Rs. 2,000/-
2.	Future Prospects	25%
3.	Deduction towards personal expenses	1/4 th
4.	Total Annual Income	Rs.22,500 /-
5.	Multiplier	15
6.	Loss of Dependency	Rs.3,37,500/-.
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of Estate	Rs.20,000/-
9.	Loss of Spousal Consortium	Rs. 48,400 /-
10.	Loss of Parental Consortium	Rs.1,93,600 /-(Rs. 48,400 X 4)
11.	Loss of filial Consortium	nil
12.	Total Compensation to be Paid	Rs.6,24,500/-

Thus, the claimants are entitled for a total compensation amount of Rs.
Rs.6,24,500/- as against Rs.96,000/-.



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20. Thus, keeping in view the aims and object of the beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (petitioners/claimants) is enhanced to **Rs.6,24,500/- (Rupees Six Lakhs twenty four thousand five hundred only).**

21. The awarded compensation shall be paid to the claimants within a period of three months from the date of this order, along with interest at 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioner/claimant), with the same terms, which have been mentioned by Ld. Tribunal.

It is further clarified that in case compensation amount due to be paid as on date is not paid within aforementioned stipulated period, same shall be payable to the claimants along with applicable rate of interest @9%p.a.

And, in case any further delay is caused beyond six months from today, compensation amount payable as on date would be paid to the claimants along with applicable rate of interest @12%p.a from the date of filing claim application till its realization.

22. Distribution of Awarded Compensation: Single mother/widow of the deceased bears the most profound emotional and economic burden after losing a loved one. After losing the company of partner in life, widow (appellant no.1) might have struggled alone very hard for upbringing their minor children. Therefore, acknowledging her significant role and impact of loss, major part of the compensation i.e. 50% (fifty-percent) would be paid to her, and remaining 50%of the compensation shall be shared by all the four children, in equal share.

23. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award would be adjusted.

Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

Pending miscellaneous application(s), if any shall also stand disposed of.

(SANJAY VASHISTH)
JUDGE

November 08, 2024
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1. Whether speaking/reasoned?

Yes/No
2. Whether reportable?

Yes/No