



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO-2560-2020 (O&M)
Date of Decision: 27.08.2026

Mahendro Devi and others

..... Appellants

Versus

Sonu and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sandeep Lather, Advocate,
for the appellants.

Mr. Arsh Khurana, Advocate, for
Mr. Rahul Pathania, Advocate,
for respondent No.3.

HARSH BUNGER J. (ORAL)

1. The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.15,13,792/- awarded by learned Motor Accident Claims Tribunal, Jind (hereinafter referred to as the "Tribunal") vide award dated 09.12.2019 passed in MACP-197/2018, filed under Section 166 of the Motor Vehicles Act, 1988 (in short the "1988 Act").
2. The appellants-claimants are the wife and children of the deceased-Suresh, who was about 43 years of age at the time of accident.
3. Briefly, the present appellants-claimants filed a claim petition under Section 166 of the 1988 Act, before the learned Tribunal, seeking compensation on account of death of Suresh in a motor vehicular accident on the plea that on 15.02.2018, appellant No.3-Rakesh alongwith his father Suresh (deceased) and one Sukhbir son of Sita Ram had gone to village Zaksi on Bajaj Platina motorcycle bearing registration No.HR-12T-2313 for the marriage proposal of Kamlesh (daughter of Suresh). While they were



returning to village Ramnagar and reached near village Sarfabad, in the mean time, a white coloured Creta Car bearing registration No.HR-21L-5959 (hereinafter referred to as the “offending vehicle), which was being driven in a rash and negligent manner at a high speed, came and hit the motorcycle, as a result of which, the occupants of the motorcycle fell on the road and face of Suresh hit the road and he sustained multiple serious and grievous injuries. The driver of the offending vehicle is stated to have sped away from the spot. Thereafter, Suresh was taken to Civil Hospital, Safidon, where he was declared dead and post mortem was conducted on his dead body. As regards the accident, case FIR No.083 dated 15.02.2018, under Sections 279 and 304-A IPC was registered at Police Station Safidon, District Jind. It was averred that the accident in question had taken place on account of rash and negligent driving of the offending vehicle by Sonu son of Om Parkash (driver of the offending vehicle).

3.1 The appellants-claimants averred that the deceased was 43 years of age, he was an agriculturist and was earning Rs.35,000/- per month. Accordingly, compensation to the tune of Rs.75,00,000/- with interest @ 18% per annum from the date of accident till its realization was claimed.

3.2 Respondent No.1 (driver of the offending vehicle) and respondent No.2 (owner of the offending vehicle) filed their joint written statement taking various preliminary objections. They denied that the alleged accident had taken place with their car. It was submitted that the police had registered a false case in collusion with the claimants. It was further stated that the offending vehicle was insured with respondent No.3- Insurance Company. Other material contents of the claim petition were



denied and prayer for dismissal of the claim petition was made.

3.3 On the other hand, respondent No.3-Insurance Company also opposed the claim of the appellants-claimants by filing its separate written statement and prayer for dismissal of the claim petition was made.

4. From the pleadings of the parties, learned Tribunal framed the following issues:-

- “1 Whether the accident in question was caused by respondent No.1 while driving car bearing registration No. HR-21L-5959 in a rash and negligent manner causing death of Suresh Singh son of Maha Singh, as alleged? OPP*
- 2 If issue no.1 is proved, whether the petitioners are entitled to any compensation and if so, to what extent and from whom? OPP*
- 3 Whether the respondent No.1 and 2 had violated any term and condition of the insurance policy? OPR-3*
- 4. Relief.”*

5. Thereafter, the parties led their respective evidence (oral as well as documentary) on the aforesaid issues.

6. Learned Tribunal, after considering the matter, awarded Rs.15,13,792/- as compensation and further awarded interest @7.5% per annum from the date of filing of the petition till its realization. Further, respondents No.1 and 2 being driver and owner of the offending vehicle respectively as well as respondent No.3-Insurance Company have been held jointly and severally liable to pay the compensation to the claimants.

7. In the aforementioned circumstances, the present appeal has been filed before this Court seeking enhancement of compensation.

8. The only ground raised by learned counsel for the appellants-claimants is that the learned Tribunal has erred in assessing the monthly



income of the deceased-Suresh by taking him as an unskilled labourer as per the minimum wages fixed by Haryana Government. It is submitted that the claimants had duly submitted the income tax returns of the deceased for the assessment years 2016-2017 and 2017-2018 and further examined PW3 Gagan Arora, Advocate, Jind, who had filed the aforesaid two returns on behalf of the deceased-Suresh. It is submitted that the aforesaid income tax returns has been wrongly brushed aside by the learned Tribunal and therefore, the impugned award is liable to be modified and enhanced compensation is required to be awarded to the appellants-claimants.

9. No other argument has been raised on behalf of the appellants.

10. I have heard learned counsel for the appellants as well as learned counsel for respondent No.3-Insurance Company and perused the paper-book with their able assistance.

11. In the present case, learned Tribunal has awarded compensation of Rs.15,13,792/- on account of death of Suresh in a motor vehicular accident. While assessing the aforesaid compensation, learned Tribunal has taken the monthly income of the deceased as Rs.8500/- on the basis of minimum wages of an unskilled labourer fixed by the Haryana Government for the relevant period in relation to the date of accident. Now the appellants-claimants are seeking enhancement of compensation on the ground that they had submitted two income tax returns of the deceased-Suresh, however, the same have not been considered by the learned Tribunal while assessing the income of the deceased.

12. I have considered the aforesaid plea raised by learned counsel for the appellants-claimants, however, suffice it to say that the income tax returns of the deceased-Suresh have been duly considered and rejected by



the learned Tribunal by returning the following findings:-

“16. Smt.Mahendro Devi (PW1) by way of affidavit Ex.PW-1/A deposed that her husband Suresh Singh was aged 43 years at the time of accident. He was doing the agricultural work and was earning Rs.35,000/- per month and was also filing income tax returns. After the death of Suresh Singh, there was none else to look after the petitioners. The petitioners have been deprived of love, affection, care and protection of the deceased. They had spent Rs.1,00,000/- on transportation and last rites of deceased.

17. PW3 Gagan Arora, Advocate (Income Tax), Jind brought the summoned record pertaining to assessee Suresh Singh son of Maha Singh, resident of Sultanpur, District Hisar. He deposed that the alleged assessee by submitting copy of PAN Card and providing detail of income and expenditure for the assessment year 2016-2017 and 2017-2018 got filed his ITR on 08.02.2018 and 10.02.2018 respectively. The original record was with income tax department. Being an Advocate, he used to keep one copy of document in his file. He proved the copies of ITRs and detail of account as Ex.P10 and Ex.P11. In cross-examination, this witness admitted that none of the documents was signed by assessee. He admitted that except these two returns dated 08.02.2018 and 10.02.2018, no other return was got filed by assessee through him. He admitted that the returns filed were of short span of two days. After 01.04.2017, the returns more than one year could not be submitted in one assessment year. Moreover, in both the ITRs, his tax liability has been shown as nil. From the ITRs alone, it cannot be assumed that the claimant had actual income as shown in the ITRs especially in the circumstances when there is no supportive evidence in this behalf. Although, the petitioners have placed on the record copy of jamabandi but this document is not helpful to this Tribunal to assess the income and occupation of the deceased.



18. No authentic proof regarding the income and occupation of the deceased has been brought on the record. Keeping in view the minimum wages of an unskilled labourer fixed by the Haryana Government, the monthly income of the deceased can be assumed as Rs.8500/-. As per copy of Aadhar Card placed on the file, date of birth of deceased Suresh is 01.01.1975; the accident had occurred on 15.02.2018. Hence, it is clear that the deceased was aged about 43 years at the time of accident. Keeping in view the age of the deceased, he would have got 25% increase in his total income over the period of time had he not died in the accident in question. The total monthly income of the deceased after 25% increase comes to Rs.10625/- (Rs.8500+25% of Rs.8500/-). Keeping in view the number of dependents, he would have spent 1/4 upon himself. After deducting 1/4 towards personal expenses, his monthly dependency comes to Rs.7969/-. Keeping in view the age of the deceased, after applying multiplier of '14', the just compensation comes to Rs.13,38,792/- (7969 X 12 X 14). Besides this, petitioners shall be entitled to Rs.15,000/- towards funeral expenses and petitioner No.1 being widow of Suresh Singh is also entitled to Rs.40,000/- on account of loss of spousal consortium. Recently Hon'ble Supreme Court in 2018 (4) RCR (Civil) 333 Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, awarded compensation on account of loss of parental consortium. As such, claimant Nos.2 to 4 being children of deceased are also entitled to a sum of Rs.40,000/- each i.e. total Rs.1,20,000/- towards parental consortium. Hence, the petitioners are entitled to total compensation amount of Rs.15,13,792/- (Rs.Fifteen Lakh Thirteen Thousand Seven Hundred Ninety Two only). This my calculation is in terms of law laid down by the Hon'ble Apex Court in case reported as National Insurance Company Limited vs. Pranay Sethi and Ors. SPECIAL LEAVE PETITION (CIVIL) No. 25590 of 2014



(SC).

This issue is decided accordingly in favour of petitioners.”

13. From the above extracted findings returned by the learned Tribunal, it is apparent that two income tax returns in respect of the assessment years 2016-2017 and 2017-2018 had not been proved on record as no-one from the Income Tax Department had been summoned/examined to prove the authenticity of the aforesaid income tax returns. It is not disputed before this Court that both the income tax returns sought to be relied upon by the appellants-claimants have not been signed by the assessee (deceased-Suresh) and apart from the said two income tax returns, which were submitted on 08.02.2018 and 10.02.2018, no other income tax returns had been placed on record. Furthermore, both the aforesaid returns are stated to have been submitted in short span of two days and in both the returns the tax liability has been shown as Nil. It is also not disputed before this Court that Shri Gagan Arora, Advocate (PW3), who had produced the aforesaid income tax returns of the deceased-Suresh, admitted in his cross-examination that after 01.04.2017, the returns for more than one year could not have been submitted in one assessment year. That apart, even the revenue record (Jamabandi) produced by the appellants-claimants have been found to be not helpful to assess the income and occupation of the deceased. I have also gone through the Jamabandi for the year 2013-14 shown by the learned counsel for the appellants-claimants during the course of hearing today. According to the said jamabandi, deceased-Suresh alongwith his mother Smt. Savitri, his brothers, namely, Ramesh and Naresh and his sisters, namely, Anita and Maya Devi, all six have to be shown to be co-sharers of joint land measuring 84 kanal 3 marla to the



extent of 1/4th share. In essence, Suresh (deceased) was entitled to only 3 kanal 14 marla area, however, there is no material on record as regards the income being derived from the aforesaid area by the deceased.

14. Since no legally admissible evidence is available on record to indicate the monthly income of the deceased-Suresh, I see no fault in the approach of learned Tribunal in assessing the monthly income of deceased-Suresh on the basis of minimum wages fixed by the Haryana Government in relation to an unskilled labourer. The Tribunal has further taken the age of the deceased-Suresh as 43 years at the time of accident and accordingly, future prospects of 25% has been granted thereby determining the monthly income of the deceased-Suresh as Rs.10,625/-. Further, out of the said amount, 1/4th has been deducted towards personal expenses. Keeping in view the age of the deceased as 43 years; a multiplier 14 has been applied and compensation of Rs.13,38,792 has been determined. The Tribunal has further granted Rs.15,000/- towards funeral expenses, Rs.40,000/- on account of spousal consortium and each of the children have been granted Rs.40,000/- as parental consortium. Accordingly, total compensation amount of Rs.15,13,792/- has been awarded alongwith interest @ 7.5 % per annum.

15. From the aforementioned facts and circumstances, it is clear that a fair compensation has been awarded to the appellants-claimants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellants.

16. No doubt, Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in



'State of Haryana & Another v. Jasbir Kaur & Others' 2003 (7) SCC 484 and *Divisional Controller K.S.R.T.C. v. Mahadeva Shetty', (2003) 7 SCC 197*, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance.

17. In view of the above discussion, the present appeal stands dismissed.

18. All the pending application(s), if any, shall also stand closed.

27.08.2026
dinesh

(HARSH BUNGER)
JUDGE

- | | |
|--------------------------------|--------|
| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |