

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**FAO No.2460 of 2001 (O&M)
Date of Decision: August 11, 2015.**

Labh Kaur and others

.....APPELLANT(s).

VERSUS

Lakha Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Gupta, Advocate
for the appellant (s).

Mr. Deepak Gupta, Advocate
for respondent No.1.

Mr. Varun Issar, Advocate
for respondent No.2.

SURINDER GUPTA, J.

This is an appeal filed by Labh Kaur mother, Kamaljit Kaur wife and Amarjot Kaur minor daughter of Dalbara Singh against the award dated 06.11.2000 passed by Motor Accident Claims Tribunal, Fatehgarh Sahib (later referred to as the Tribunal), allowing compensation to the tune of ₹3,84,000 for the death of Dalbara Singh (later referred as deceased) in a motor accident.

The facts of the case leading to the filing of the present claim petition as enumerated in award are that on 09.05.1997 at about 07.00 p.m.

Dalbara Singh along his friend Lakhbir Singh was going on scooter bearing

No.HR-03-0421. When they reached near the crossing of Sector 4 and 5, Panchkula, a military truck bearing No.87-D-73296-N (later referred to as the offending truck) came from the market side of Sector 4. It was being driven in a rash and negligent manner by respondent No.1-Lakha Singh. The offending truck struck against the scooter and dragged it upto a distance of 10 yards, resulting in fatal injuries to both the riders of the scooter, who died at the spot. FIR bearing No.480 dated 09.05.1997 was registered against respondent No.1 at Police Station Sector-5, Panchkula.

The appellants-claimants had averred that deceased was serving in Police Department and was drawing a salary of ₹4,500/- per month. The claimants were dependent on him and have been deprived of his earning. The death of Dalbara Singh has caused physical and mental agony to them. They claimed compensation to the tune of ₹20 lacs along with interest from the respondents.

In the written statement filed by respondent no.1, all the averments mentioned in the claim petition were denied inter-alia pleading that on the day of occurrence, he was coming from Sector 4 and was going towards Sector 5, Panchkula. On passing the crossing, he heard a noise on the road and alighted from the truck and found that two persons have fallen on the road along with their scooter. He along with his companion Havildar Gurmail Singh took both to the Civil Hospital, Panchkula.

In separate written statement filed by respondent no.2, it was alleged that driver of the scooter came at a high speed and hit the scooter on the rear wheel of the offending truck. The accident had taken place as the

Lakha Singh got the injured admitted in the hospital.

The deceased was 26 years of age. He was posted as Constable in Police Department and was drawing ₹4,577/- per month as salary as per salary certificate (Ex.P1). He left behind his mother, wife and minor daughter as his dependents. The Tribunal deducted an amount of ₹2,500/- per month from his salary towards the personal expenses of the deceased and out of remaining amount by taking the salary of the deceased as ₹4,500/- per month, it calculated the dependency amount for the claimants as ₹2,000/- per month. By applying the multiplier of 16, the amount of ₹3,84,000/- was calculated towards the compensation. While applying the multiplier, calculating the amount of compensation, the Tribunal has observed as follows:-

“Now coming to the multiplier, the deceased was an younger and 26 years old. He has to enjoy life. It will also not be out of place to mention here that normal expectancy of life in this part of the country is 70 years. The Tribunal is also to keep in view that due to incertainties (sic uncertainties), imponderables and other natural causes there could be abrupt termination of the life of the deceased or any other dependants. Singh (sic since) Darbara Singh died young and there are chances of his widow being remarried, the Tribunal is also to take in view the amount which is being paid to the claimants in lumpsum and the interest which they will incur on this amount if the same is invested in some nationalised Bank. Taking all the above referred factors in view, this Tribunal observes that to apply a multiplier of '16' will be most appropriate, fair and just in this case. While calculating the compensation keeping in view the above

referred factors, it comes to Rs.3,84,000/-.”

As observed in case of *Sarla Verma and others Vs. Delhi Transport Corporation 2009 (6) SCC 121* for the age group of 26 to 30, a multiplier of 17 is to be applied. The Tribunal has given no reason as to why it has opted to use the multiplier of 16. The other factors taken into consideration by the Tribunal while assessing the amount of compensation are irrelevant.

The deceased has left behind his mother, wife and minor daughter. The income of the deceased was proved as ₹4577/- per month, out of which 1/3rd amount is to be deducted as his personal expenses. As per the observations of Hon'ble Supreme Court in case of *Rajesh and others Vs. Rajbir singh and others (2013) 9 Supreme Court Cases 54 and Munna Lal Jain versus Vipin Kumar Sharma, (2015) 6 SCC, 347*, 50% of the income of the deceased is to be taken towards future prospects. Taking this in view, the compensation of the claimants works out as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Salary	₹4,577 per month
(ii)	50% of (i) above to be added as future prospects	(₹4,577+ ₹2288)= (₹6,865 per month)
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	(₹6,865-₹2288)= ₹4,577 per month
(iv)	Compensation after multiplier of 17 is applied	(₹4,577 X12X17)= ₹9,33,708
(v)	Loss of consortium	₹1,00,000
(vi)	Loss of care and guidance for minor children	₹1,00,000
(vii)	Funeral and transportation expenses	₹25,000
<i>Total</i>		₹11,58,708 (rounded of ₹11,58,700)

The appeal is accepted. The award of the Tribunal is modified

and the appellants-claimants are allowed compensation of ₹11,58,700/- for the death of Dalbara Singh. The above amount will carry interest @ 8% per annum. The amount of award already paid shall be deducted from the enhanced amount of compensation. Lakhbir Kaur, mother of the deceased shall get 25% of the enhanced amount; Kamaljit Kaur, wife of the deceased shall get 50% of the enhanced amount and Amarjot Kaur, daughter of the deceased shall get remaining 25% of the enhanced amount. In case Lakhbir Kaur has expired by now, her share will be equally shared by Kamaljit Kaur and Amarjot Kaur. As Amarjot Kaur might have attained the age of majority as the death of her father had taken place more than 18 years back, she will be entitled to get her share. The payment of the compensation amount be made to the appellants-claimants by way of demand drafts/deposit in their bank accounts.

August 11, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE