

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

**FAO No.3930 of 2010 (O&M)
Date of Decision: September 10, 2015.**

Sarabjit Kaur and others

.....APPELLANT(s).

VERSUS

Gurmit Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vivek Suri, Advocate
for the appellant (s).

Mr. Nikhil Sharma, Advocate
for the respondent.

SURINDER GUPTA, J.

This is an appeal filed by claimants against the award dated 08.03.2010 passed by Motor Accident Claims Tribunal, Patiala (later referred to as the Tribunal) whereby compensation of ₹4,08,000/- was awarded for the death of Harmail Singh (later referred to as the deceased) in a motor accident with tractor FORD-3600 bearing registration No.PJS-2043 (later referred to as the offending vehicle).

The case of the claimants in brief is that on 24.10.2008 deceased was coming to Patiala from Nabha on his motorcycle bearing No.PB-10-P-0125, which was being driven by Bant Singh and the deceased was pillion rider. When they reached near village Rakhra on Nabha-Patiala road, the offending vehicle, which was being driven by respondent Gurmit Singh in a rash and negligent manner, hit the motorcycle of Bant Singh, as a result of

which both the riders of the motorcycle suffered multiple injuries. The accident was witnessed by Harwinder Singh of village Dhablan. Bant Singh was admitted in Rajindra Hospital, Patiala, whereas deceased was referred to Amar Hospital, where he succumbed to his injuries. An FIR No.510 dated 25.10.2008 was registered for the offences punishable under Section 279 and 304-A IPC at Police Station Sadar Patiala. The offending vehicle was not insured.

The deceased was 28 years of age and was working as Welder at Nabha. He was also running dairy business and his monthly income was ₹15,000/-. Compensation to the tune of ₹20 lacs was claimed by the claimants being the dependent on the deceased.

Respondent denied the accident. It was alleged that the tractor had been parked on the road side at village Kalyan undergoing repairs at a workshop.

The Tribunal while recording finding on issue No.1, held that the accident had taken place due to rash and negligent driving of the offending vehicle.

Learned counsel for the appellant has argued that the deceased was 27 years of age at the time of his death and was self-employed as Welder. He has sought enhancement of compensation towards future prospects, loss of consortium for appellant No.1, loss of love and affection for appellant No.2 and loss of estate for appellants No.3 and 4 along with funeral and transportation expenses.

The Tribunal has calculated the compensation to the tune of ₹4,08,000/- by taking the income of the deceased as ₹3,000/- per month.

After deducting 1/3rd of his income towards personal expenses, a multiplier of 17 was applied.

In case of *Rajesh and others Vs. Rajbir and others (2013)9 SCC 54* and *Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447*, Hon'ble Apex Court has observed that even a self-employed person below the age of 40 years, is entitled to 50% addition in his income towards future prospects.

Appellant No.1 being wife is entitled to compensation for loss of consortium while appellant No.2 being daughter is entitled to compensation towards loss of love and affection, care and guidance from her father and claimants No.3 and 4 being parents of deceased are entitled to compensation towards loss to the estate. The Tribunal has not allowed any compensation towards transportation of the deceased and funeral expenses and also towards the medical expenses.

Keeping all the above facts in view, the claimants are held entitled to the compensation as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹3000 per month
(ii)	50% of (i) above to be added as future prospects	(₹3000+ ₹1500)= (₹4500 per month)
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	(₹4500-₹1500)= ₹3000 per month
(iv)	Compensation after multiplier of 17 is applied	(₹3000X12X17)= ₹612000
(v)	Loss of consortium	₹100000
(vi)	Loss of care and guidance for minor children	₹100000
(vii)	Funeral and transportation expenses	₹25000
(viii)	Loss to the estate	₹50000
<i>Total</i>		₹887000

The appeal is accepted. The award of the Tribunal is modified and the appellants-claimants are allowed compensation of ₹8,87,000/- for death of Harmail Singh. The above amount will carry interest as allowed by the Tribunal from the date of filing of the petition till actual payment. The amount of enhanced compensation shall be apportioned between the claimants as per the impugned award. The share of minor Ramandeep Kaur-appellant No.2 will be deposited in some nationalized bank as fixed deposit till the period she attains majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in her name after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions, the bank usually gives to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

September 10, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE