

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

FAO-1329-2001 (O&M)
(MACT No.179-T/99 of 3.5.94)
Date of decision: 7.4.2016

Paramjit Kaur and others

...Appellants

Versus

Baldev Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.AS Sandhu, Advocate for the appellants

Mr.Gaurav Gaur, Advocate for respondent No.3

Mr.SS Grewal, Advocate for respondent No.5

Mr.Ravinder Arora, Advocate for respondent No.6

SNEH PRASHAR, J.

There is delay in filing and refiling the appeal.

Considering the submissions made in the applications, the delay in filing as well as in refiling the appeal is condoned and the applications stand disposed of accordingly.

FAO-1329-2001

Claimants-appellants Paramjit Kaur and others by filing the present appeal have sought enhancement of the compensation awarded to them by learned Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal') vide award dated 12.10.1999 on account of death of Nirmal Singh, husband of appellant No.1 and father of appellants No.2 and 3, in a motor vehicular accident, which took place on 6.4.1994.

The submissions made by Mr.AS Sandhu, Advocate representing the appellants, Mr.Gaurav Gaur, Advocate for respondent No.3, Mr.SS Grewal, Advocate for respondent No.5 and Mr.Ravinder Arora, Advocate for respondent No.6 have been heard.

It is submitted on behalf of the appellants that the deceased was employed as a Service Constable in C.I.D. Rajpura and was drawing monthly salary of Rs.4000/- per month, whereas learned Tribunal assessed his income as Rs.2500/- per month, which is extremely low. The deduction of 1/3rd towards living and personal expenses made by learned Tribunal is in contravention to the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. No amount computing future prospects of the deceased, for loss of consortium to the widow and loss of love, care and guidance to the children was allowed, whereas a meager amount of Rs.9,000/- was allowed as funeral expenses.

Undisputedly, Nirmal Singh died on account of the injuries suffered by him in a motor vehicular accident. He was posted as Service Constable in C.I.D. Rajpura. PW7 C.Jaswinder Singh produced his

service record and stated that his basic salary was Rs.1365/- per month but no document was produced to prove the total salary drawn by him. In the absence of the required evidence, learned Tribunal assessed his income as Rs.2500/- per month, which calls for no intervention.

Perusal of the award shows that no amount was added to the actual monthly income of the deceased computing future prospects. Following the ratio in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, since the deceased was 36 years old, there had to be an addition of 50% to the actual income of the deceased on account of loss of future prospects. There being four dependents in the claim petition i.e. widow, two children and mother, in view of the law laid down in **Sarla Verma and others's case (supra)**, deduction of 1/4th towards personal and living expenses of the deceased is applicable. The multiplier of 15 was rightly applied by learned Tribunal.

While awarding compensation under the conventional heads, learned Tribunal has not allowed any amount towards loss of love, care and guidance to the minor children and loss of consortium to the widow. Untimely death of Nirmal Singh was naturally a grave shock to the claimants. He was the sole bread earner of the family. Following the ratio of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54** Rs.one lac is allowed on account of loss of love, care and guidance to the children and Rs.one lac under the head of loss of consortium to the widow. Further a sum of Rs.25,000/- is allowed as expenditure on last rites including the amount already awarded

Accordingly, the total compensation comes to Rs.7,31,250/- i.e. Rs.2500 (monthly income)+ 50% (future prospects) -1/4rd (deduction on account of living and personal expenses of the deceased) x 12 x 15 (multiplier) + Rs.2,25,000 (conventional heads including already awarded). The enhanced amount i.e. Rs.4,16,250/- (7,31,250- 3,15,000) shall be paid to the appellants within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation. As held by learned Tribunal, the drivers of both the buses were equally responsible for the accident, both the Insurance Companies will pay the enhanced compensation in the ratio of 50:50.

In the above premises, the present appeal is partly allowed with modification in the impugned award as noticed above.

7.4.2016
gsv

(SNEH PRASHAR)
JUDGE