

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

**FAO No.4228 of 2012 (O&M)
Date of Decision: January 27, 2016.**

Sarabjeet Kaur and others

.....APPELLANT(s).

VERSUS

Baljit Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashwani Arora, Advocate
for the appellant (s).

Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate
for respondent No.3.

SURINDER GUPTA, J.

The appellants have filed this appeal claiming enhancement of compensation allowed vide award dated 28.02.2012 by Motor Accident Claims Tribunal, Moga (later referred to as 'the Tribunal') for the death of Ranjit Singh(later referred to as 'the deceased') husband of appellant-claimant No.1, father of appellants-claimants No.2 and 3 and son of appellant-claimant No.4.

2. The case of claimants, in brief, is that on 30.06.2010, the deceased was going from Moga to village Dagru in car bearing No.PB-03E-0108 along with Devinder Kumar and Gurmit Singh. A truck bearing registration No.RJ-12-1G-5651 (later referred to as 'the offending vehicle')

came at fast speed from opposite direction and hit the car of the deceased. At the time of accident, the offending vehicle was being driven by its driver Baljit Singh in a rash and negligent manner. The deceased and other occupant of the car Devinder received serious injuries and were taken to Civil Hospital, Moga, where the deceased was declared as '*brought dead*'. The matter was reported to the police vide FIR No.100 dated 01.07.2000, registered on the statement of Devinder Kumar. The deceased was 44 years of age at the time of his death and was employed as driver with Punjab Roadways, Tarn Taran and getting monthly salary of ₹25,000/-.

3. Respondents No.1 and 2 i.e. driver and owner of the offending vehicle contested the claim petition, inter-alia pleading that the accident had taken place as the car bearing No.PB-03E-0108 was coming at a very high speed and when it reached near the offending vehicle, front right tyre of the car got burst as a result of which it tilted towards the offending vehicle and hit it.

4. Respondent No.3-insurer of the offending vehicle denied the accident.

5. On appraisal of evidence, the Tribunal recorded the finding that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1-Baljit Singh. Claimants were allowed compensation of ₹8,04,000/- by taking the income of the deceased as ₹16,000/- per month and applying multiplier of 14 after making a deduction of 1/3rd from income of the deceased towards his personal expenses. The claimants were also allowed ₹10,000/- towards funeral expenses and another

sum of ₹10,000/- towards loss of consortium.

6. Learned counsel for the appellants has argued that as per observations of Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121, 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***, the Tribunal has not added 30% in the income of the deceased towards his future prospects. The claimants are also entitled to compensation of ₹1 lac each towards loss of consortium, loss of love and affection, care and guidance for minor children and for loss of estate for father of the deceased and ₹25,000/- towards funeral expenses.

7. Learned counsel for respondent No.3-insurance company has argued that the Tribunal has rightly applied the multiplier of 14 while calculating the compensation. There is no set formula for calculation of the compensation. The Tribunal has to award just and reasonable compensation keeping in view the facts and circumstances of each case. The compensation allowed in this case is fair and reasonable calling for no further enhancement.

8. The deceased was admittedly employed as driver with Punjab Roadways, as such, was in permanent employment, getting monthly salary for ₹16,564/-. As per the observations in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)***, the claimants are entitled to addition of 30% in the salary of deceased towards his future prospects. The concept of grant of compensation towards future prospects was further enlarged by Hon'ble Apex Court vide observations in case of ***Rajesh and***

Vipin Kumar Sharma and others (supra) by extending the same even for the privately employed and self-employed persons including artisans. The claimants are also entitled to a compensation of ₹1 lac each towards loss of consortium for claimant No.1, for loss of love and affection, care and guidance for claimants No.2 and 3 and for loss of estate for claimant No.4 besides a sum of ₹25,000/- towards funeral expenses.

9. In view of above discussion, the amount of compensation to which the claimants are entitled, is tabulated as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Salary	₹16000 X 12= ₹192000/- per annum
(ii)	30% of (i) above to be added as future prospects	(₹192000+ ₹57600)= ₹249600
(iii)	Income after deducting income tax as per income tax slab for the year 2010-2011 (learned counsel for appellants has assisted in calculating this amount)	₹249600-₹8859 =₹240741
(iii)	Income after 1/4 th deducted as personal expenses of the deceased	(₹240741-₹60185)= ₹180555 p.a.
(iv)	Compensation after multiplier of 14 is applied	(₹180555X14)= ₹2527770
(v)	Loss of consortium	₹100000
(vi)	Loss of love and affection, care and guidance for children	₹100000
(vii)	Loss of estate	₹100000
(viii)	Funeral expenses	₹25000
<i>Total</i>		₹2852770/-

10. The appeal is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹8,04,000/- to ₹28,52,770/- for the death of Ranjit Singh. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the petition till actual realization. The amount of enhanced

compensation shall be apportioned between the claimants as per the award. As the offending vehicle was insured with respondent No.3, it will indemnify the insured by depositing entire compensation amount as awarded to the claimants. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

January 27, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE