

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

F.A.O No. 1936 of 2012 (O&M)

Date of decision: May 10, 2017

Sukhwinder Kaur & Ors.

... Appellants

Versus

Harbhajan Singh & Anr.

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Hardeep Singh, Advocate,
for the appellants.

Mr. Shakti Mehta, Advocate,
for respondent No.2

HARI PAL VERMA, J (Oral)

Appellants-claimants have filed the present appeal seeking modification/enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Patiala (for short 'the Tribunal') vide award dated 22.07.2011.

Briefly stated, as per claim petition, on 06.08.2009, deceased Ajit Singh alongwith Sukhwinder Kaur (appellant No.1 herein) was returning on a motorcycle bearing registration No.PB-11-AF-5895 after taking medicines from Patiala. The motorcycle was being driven by deceased Ajit Singh while Sukhwinder Kaur was pillion rider. When they reached at a little distance from bus stand Naina Akout on Devigarh Patiala Road, a PRTC bus bearing registration No.PB-11-N-9534 being driven by the respondent No.1 at a very high speed in a rash and negligent manner came from opposite side. The bus struck against the

motor-cycle while coming from the wrong side. Due to this impact, deceased Ajit Singh alongwith his wife Sukhwinder Kaur, fell down on the road. Both suffered multiple grievous injuries. Injured were taken to Rajindra Hospital Patiala where Ajit Singh succumbed to his injuries. Regarding the accident, FIR No. 391 dated 06.08.2009 u/s 340A, 279, 337, 338, 427 of IPC was registered at PS Sadar Patiala.

The Tribunal had assessed the monthly income of deceased at Rs.4500/- per month and while deducting $1/3^{\text{rd}}$ towards the personal expenses of the deceased and applying multiplier of 13 had assessed the loss of dependency at Rs.4,68,000/- ($4500 - \frac{1}{3} \times 12 \times 13$). Besides this an amount of Rs.10000/- each was awarded towards funeral expenses and loss of consortium. In this manner a total compensation of Rs.4,88,000/- was awarded to the claimants.

Dissatisfied with the aforesaid compensation, appellant/claimants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that the Tribunal has awarded a meagre amount of compensation to the appellant-claimants. Deceased was about 50 years of age and was working as a Granthi in Gurudwara Sri Kanga Sahib at Village Bibipur Khurd and was getting a salary of Rs.15,000/- per month from the Gurudwara Sahib. Besides this the deceased also used to take land on lease and was earning Rs.10,000/- per month from the agricultural work. However, the tribunal has wrongly taken the income of the deceased at Rs.4,500/- per month, which is on much lower side.

He has further argued that deduction of 1/3rd from the monthly income of the deceased towards his personal expenses is also on the higher side, as the dependents upon the deceased are 4 in number. Adequate compensation has not been awarded under the head of funeral expenses and consortium. Even no amount of compensation under the head of love and affection to appellant Nos. 2 and 3, namely Sandeep Kaur (daughter) and Satwinder Singh (son) has been granted by the Tribunal. He has prayed for enhancement of compensation.

On the other hand, learned counsel for respondent No.2 has argued that the Tribunal has awarded adequate compensation and there was no evidence regarding the income of the appellant as pleaded in the claim petition. Therefore the Tribunal has rightly assessed the income as Rs.4,500/- per month.

I have heard learned counsel for the parties.

There is no dispute that deceased- Ajit Singh was about 50 years of age. He left behind a widow, two children and a old mother, namely, Radha Rani. The Tribunal deducted 1/3rd income towards the personal expenses of the deceased whereas in view of the law laid down by Hon'ble Apex Court in *Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) SCC 121*, the deductions should have been 1/4th as the dependents were 4 in number. Similarly compensation awarded under the head of consortium and funeral expenses also deserves to be enhanced. Appellant-claimants No.2 and 3 also deserves some compensation under the head loss of love and affection.

The monthly income of the deceased assessed by the

Tribunal is also on lower side. Jasbir Singh (PW-2) has desposed that deceased Ajit Singh was engaged by the Gurudwara Committee as a Granthi in Gurudrawa Sahib w.e.f. January 2007 and is being paid Rs.5000/- per month as salary. Besides this he was also doing agricultural work and was maintaining a family consisting of five members including his wife, two children and mother. In the absence of any record of income, the income of the deceased should not have been determined less than Rs.5,000/- per month as in order to maintain such family, which consists of five members atleast, the deceased must have been earning Rs.5000/- per month.

The application of 13 as multiplier is in accordance with principles held by Hon'ble Apex Court in *Sarla Verma's case* (supra). In this way, the amount for loss of dependency for the family would be Rs.5,85,000/- ($5000 - \frac{1}{4} \times 12 \times 14$) instead of Rs.4,68,000/- determined by the Tribunal. Thus this Court allows the above increase and income of deceased is assessed at Rs.5000/- per month instead of Rs.4500/- per month.

The Tribunal has awarded an amount of Rs.10,000/- each towards funeral expenses and loss of consortium which is also on lower side. The amount under the head funeral expenses is increased to Rs.25,000/- and the amount under the head loss of consortium is increased to Rs.1,00,000/-. Appellants-claimants No.2 and 3 are also awarded a sum of Rs.1,00,000/- towards the loss of love and affection as these claimants have lost their father in the accident and have been deprived the love and affection of their father. Thus the total amount of

compensation would be Rs.8,10,000/- 585000+25000+100000+100000).

The enhanced amount of compensation shall also carry interest @ 6% per annum from the date of filing of the claim petition till the amount is paid.

The amount under the conventional head i.e. loss of consortium would be payable to appellant no. 1-wife and under the other conventional head i.e. loss of love and affection to appellants no. 2 and 3 equally. The remaining amount would be disbursed in the same proportion as determined by the Tribunal.

With the aforesaid modification in the award, the present appeal stands disposed of.

May 10, 2017

TRIPTI

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No