

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

FAO No.4818 of 2014 (O&M)

Date of Decision: August 24, 2017

Charanjit Kaur and others

...Appellants

Versus

Baljit Singh and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Tapish Gupta, Advocate for
Mr.Puja Chopra, Advocate for the appellants.

Mr.R.N.Singal, Advocate for
Insurance Company – respondent No.2.

HARINDER SINGH SIDHU, J.

For the reasons stated in Civil Misc.No.13590-CII of 2013, delay of 124 days in filing the appeal is condoned.

Mother Rajwinder Kaur, widow Charanjit Kaur and minor children Gursukhman Singh and Simranjit Kaur filed claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal') seeking compensation for the death of Nirmal Singh in a vehicular accident on 11.2.2011 at about 9.30 pm in the area of village Kassiyana, District Patiala.

The accident was caused due to rash and negligent driving of car No.PB-11AL-9195 by Baljit Singh – respondent No.1, when he hit the motorcycle of the deceased. FIR regarding the accident was also recorded.

On the evidence led before it, the Tribunal assessed the income of

the deceased at Rs.6000/- per month, deducted 1/3rd for the personal living expenses of the deceased, applied the multiplier of 15 and assessed the loss of dependency at Rs.7,20,000/- (4000x12x15). That apart, Rs.1,00,000/- towards 'loss of consortium' and Rs.25,000/- under the head of 'funeral expenses' were also awarded. In all, compensation of Rs.8,45,000/- along with interest was awarded (*wrongly calculated and written as 8,25,000/- in the impugned award*).

Feeling dissatisfied with the quantum of compensation, the claimants have filed the instant appeal.

The factum of accident, involvement of the vehicle, loss of income and dependency are not in dispute.

Ld. Counsel for the claimants has raised four contentions – (i) considering the age of the deceased i.e. 29 years, the multiplier of '15' as applied by the Tribunal needs to be replaced by '17' in view of the settled law; (ii) since there are four dependants, deduction on account of personal living expenses should be 1/4th only; (iii) there must be increase of 50% in the income towards future prospects, and (iv) no amount under the heads of 'love and affection' and 'loss of estate' is awarded by the Tribunal.

Having heard Ld. Counsel for the parties and going through the paper-book with their assistance, I find merit in the submissions made on behalf of the claimants/ appellants.

In view of the decisions of Hon'ble the Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr.**, 2009(6) SCC 121, **Rajesh and Others Vs. Rajbir Singh and Others** 2013(9) SCC 54, **Munna Lal Jain and another vs. Vipin Kumar**

Sharma and others, 2015(6) SCC 347, **National Insurance Company Ltd. Vs. Gurumallamma and another** 2009 (16) SCC 43, **Asha Verman and others vs. Maharaj Singh and others**, 2015(11) SCC 389, **Kalpanaraj and others vs. Tamil Nadu State Transport Corporation**, 2015(2) SCC 764, **Kala Devi and others vs. Bhagwan Das Chauhan and others**, 2015(2) SCC 771 and etc., the claimants are held entitled to the following compensation:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income	Rs.6,000/-
(ii)	50% of above (i) to be added as future prospects	Rs.6000+3000 = 9000/-
(iii)	¼ of (ii) deducted as personal expenses of the deceased	Rs.9000-2250 = 6750/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.6750x12x17 = 13,77,000/-
(v)	Loss of consortium (for the widow)	Rs.1,00,000/-
(vi)	Loss of Love and affection (Rs.50,000/- for each child and mother)	Rs.1,50,000/-
(vii)	Loss of Estate	Rs.1,00,000/-
(viii)	Funeral Expenses	Rs.25,000/-
	Total	Rs.17,52,000/-

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.17,52,000/-, that is, Rs.9,07,000/- (1752000-845000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

That amount awarded under heads at Sr.No.(v) and (vi) 'loss of

consortium' and 'loss of love and affection' shall be payable to the claimants, as indicated therein. The remaining increased amount shall be payable to the claimants in the same manner and proportion, as awarded by the Tribunal.

August 24, 2017

(HARINDER SINGH SIDHU)
JUDGE

gian

Whether Speaking / Reasoned	Yes / No
Whether Reportable	Yes / No