

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

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**FAO No.49 of 2009 (O&M)
Date of Decision: July 17, 2018**

Gurbachan Kaur and others

.....Appellant(s).

VERSUS

Umed Singh and others

...Respondent(s).

CORAM:- HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Y.S. Turka, Advocate
for the appellant.

Mr. Anil Kumar Malik, Advocate
for respondents No.1 and 2.

Mr. Ashwani Talwar, Advocate with
Mr. Sehaj Mahajan, Advocate
for respondent No.3

DEEPAK SIBAL, J. (ORAL)

Through the present appeal, the appellants-claimants seek enhancement in the compensation awarded to them by the Motor Accident Claims Tribunal, Ambala (for short – Tribunal).

The facts in brief which need to be noticed for adjudicating upon the present appeal are that Didar Singh along with one Balbir Singh were going on a tractor bearing registration No.UPF-8511. When they were on the G.T. Road between Ambala and Lalru, a truck bearing registration No.HR-55-A-0861 which was being driven in a rash and negligent manner hit their tractor from behind. Due to the accident, Didar Singh received injuries and succumbed to the same on the way to the hospital. Balbir Singh

also received injuries.

The appellants filed a claim petition before the Tribunal which awarded the compensation @ Rs.2,76,000/- by assessing the same in the following manner:-

i) Monthly income	=	Rs.4,000/-
ii) Annual income	=	Rs.48,000/-
iii) Deduction of 1/3 rd	=	Rs.16,000/-
iv) Annual dependency	=	Rs.32,000/-
v) Multiplier of 8	=	Rs.2,56,000/-
vi) Expenses of last rites, etc	=	Rs.20,000/-
Total	=	Rs.2,76,000/-

As per the Tribunal, the awarded compensation was to be apportioned amongst the claimants and Manpreet Kaur (non-claimant-appellant No.4 herein) in the following ratio:-

i) Gurbachan Kaur, widow (claimant No.1) (40%)	=	Rs.1,10,400/-
ii) Baldev Singh, son (claimant No.2) (20%)	=	Rs.55,200/-
iii) Paramjit Kaur, daughter (claimant No.3) (20%)	=	Rs.55,200/-
iv) Manpreet, daughter (non-claimant) (20%)	=	Rs.55,200/-

Learned counsel for the parties agree that as per the law laid down by the Hon'ble Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi and others, (2017) 16 SCC 680***, for loss of consortium, funeral expenses etc., compensation @ Rs.20,000/- as granted by the Tribunal should be enhanced to Rs.70,000/- and that since the age of the deceased, as per the ration card (Ex.P6) produced by the claimants was 57 years, therefore, multiplier of 9 instead of 8 should be applied. It is further agreed that the claimants are entitled to future prospects.

Before the Tribunal, the claimants had submitted that at the time of death of Didar Singh, he was earning Rs.8000/- per month as he owned land and a tractor, which was being used by him as a commercial vehicle. The registration certificate of the tractor showing the deceased to

be its owner was produced and proved in Court. Further, the deceased's widow had stated that the deceased was owner in possession of one acre of agricultural land. In the light of these proven facts, the income of the deceased, in the year 2006, could have not been less than Rs.5000/- per month and the same is assessed accordingly.

The enhanced amount be disbursed to the claimants in the following apportionment:-

Gurbachan Kaur widow - 2/3rd

Remaining 1/3rd in equal apportionment to Baldev Singh son of Didar Singh, Paramjit Kaur daughter of Didar Singh and Manpreet daughter of Didar Singh

The widow has been given 2/3rd of the enhanced compensation as the Court is informed by learned counsel for the appellants that it is she who has suffered the most on account of her husband's death and her children are now married and settled.

Learned counsel for the respondents have no objection to the above apportionment.

On the above enhanced amount the appellants are also held entitled to 6 % interest from the date of filing of the claim petition till its realization.

The appeal is allowed in the above terms.

July 17, 2018

A.Kaundal

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No