

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

FAO-4119-2001 (O&M)

Date of decision: 13.03.2019

Mohinder Singh and others

...Appellants

Versus

Bakshish Singh and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr. D.S. Nain, Advocate  
for the appellants.

Mr. Ravinder Arora, Advocate and  
Mr. R.K. Bashamboo, Advocate for respondent No.3.

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**H.S. MADAAN, J. (Oral)**

On account of unfortunate death of Zile Singh, Smt. Bedan ,  
Yashwanti and injuries to Beero and Rajbala, in a motor vehicular  
accident, which took place on 30.12.1999 at about 9.30 AM, in the area  
of Police Station Rajound, statedly on account of rash and negligent  
driving of truck No.HR-37-5348 by its driver-Bakshish Singh, respondent  
No.1, legal representatives of all the three deceased and the injured had  
filed claim petitions under Section 166 of the Motor Vehicles Act, 1988  
against the respondents i.e. Bakshish Singh-driver, Narender Singh-  
owner and United India Insurance Company Ltd., Ambala City-insurer of  
offending truck in question. All the five claim petitions were disposed of,  
vide a single award dated 22.01.2001.

In the claim petition filed by legal representatives of Yashwanti bearing MACT Case No.30 of 2000, titled Mohinder Singh and others Vs. Bakshish Singh and others, compensation of Rs.1,10,000/- was awarded. The tribunal had taken the age of Yashwanti deceased to be 30 years, observing that she was doing household work, looking after her children, though, her services in pecuniary terms were assessed to be Rs.500/- per month and annual dependency of claimants i.e. husband-Mohinder Singh, minor daughter Annu and minor sons Anil and Ajay was worked out to Rs.6000/-. Using multiplier of 17, the compensation was worked out to Rs.1,02,000/-. In addition to that, a sum of Rs.8000/- was awarded towards personal expenses and loss of consortium. In that way, total compensation was calculated to be Rs.1,10,000/-, payable by all the three respondents jointly and severally.

Dissatisfied with the compensation so awarded, legal heirs of Smt. Yashwanti, namely, Mohinder Singh and others have approached this Court by filing the present appeal, notice of which was given to the respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The first argument advanced by learned counsel for the appellants is that notional income of deceased so taken to be Rs.500/- per month, is on very lower side and it should have been taken to be Rs.3000/- per month at least. In support of his such contention, he has referred to few judgments, first being **Paramjit Singh and another** Vs. **Dilbagh Singh @ Bagga and others**, 2014(4) RCR (Civil) 895 by a

Division Bench of this Court, where, in case of death of a house wife in a motor vehicular accident, the value of her services was assessed as Rs.3000/- per month, observing that no amount was to be deducted towards personal expenses from that amount. He has further relied upon Apex Court judgment **Jitender Khimshankar Trivedi and others** Vs. **Kasam Daud Kumbhar and others**, 2015 ACJ 708. He has further placed reliance upon judgment **Dev Raj and others** vs. **Ram Chander and others**, 2016 ACJ 1583 by a Co-ordinate Bench of this Court, where notional income of a house wife was assessed to be Rs.5000/- per month and deduction of 1/4<sup>th</sup> of the amount was made. However, keeping in view the age of deceased at the time of accident and the fact that accident had taken place on 30.12.1999, considering the number of family members, I find it proper and appropriate to take notional income of deceased as Rs.3000/- per month on account of services rendered by her to the family. Of course, no deduction towards personal expenses is to be made. It being so, the annual dependency comes out to Rs.36,000/- (Rs.3000 X 12). Using multiplier of 17, the total compensation comes out to Rs.6,12,000/-.

It has further been pointed out that the compensation granted under conventional heads is also on the lower side. As per ratio of the authority **National Insurance Company Limited** Vs. **Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009, the claimants are entitled to get a sum of Rs.15,000/- under the head loss of estate, Rs.40,000/- under loss of consortium and Rs.15,000/- under the head funeral expenses, making it total of Rs.70,000/-. In that way, total compensation payable comes out to

be Rs.6,82,000/-.

As the tribunal has awarded compensation of Rs.1,10,000/-, therefore, the claimants are entitled to get an additional compensation of Rs.5,72,000/- ( Rs.6,82,000 – 1,10,000). The appeal in that way is allowed and enhanced compensation of Rs.5,72,000/- is awarded to the claimants, payable by all the three respondents jointly and severally with interest @ 7.5 p.a., from the date of filing of appeal till actual realization along with costs of the petition. The other terms & conditions with respect to apportionment etc., shall remain the same as given in the original award. However, if the minor children have attained majority by now, on proof thereof, their share in the enhanced compensation would be released to them directly.

13.03.2019

*sumit.k*

**(H.S. MADAAN)**  
**JUDGE**

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |