

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

**FAO No.5786 of 2002 (O&M)
Date of Decision :13.02.2019**

Maha Singh & others.

....Appellants

Versus

Managing Director, PRTC, Patiala & anr.

...Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: None for the appellants.

Mr. Aman Sharma, Advocate
for the respondent-PRTC.

B.S. Walia, Judge (Oral).

1. None is present on behalf of the appellants. Even on the previous date, none was present on behalf of the appellants.
2. Since the accident is of 25.10.1999 while the appeal pertains to the year 2002, I am not inclined to adjourn the matter any further. Therefore, with the able assistance of learned counsel for the respondent-PRTC, I have gone over the record and considered the claim for enhancement.
3. Appeal has been filed by the husband and two minor children of Gurdev Kaur, who died in a motor vehicular accident on 25.10.1999. Prayer is for enhancement of compensation of ₹66,000 awarded by the learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal').
4. The Tribunal took into account that the deceased was a housewife, assessed the services rendered by her in monetary terms at ₹1,000/- and by imposing deduction of 50% of the monthly contribution towards her personal expenses and taking into account her age as 45 years as

per postmortem report and applying multiplier of 11, awarded compensation of ₹66,000/-

5. I have perused the paper book and gone through the record.

6. Admittedly, the deceased was a housewife. Although the date of accident is 25.10.1999 and there is no evidence on record with regard to earning of the deceased yet it would be appropriate to take into account minimum wages fixed for an unskilled labourer for the relevant period under the Minimum Wages Act, 1948 (hereinafter referred to as the Act) i.e. ₹1749/- rounded off to ₹1750/- as the monthly contribution of the deceased housewife to her family. Photocopy of the notification under the Act for the relevant period issued by the State of Punjab is taken on record as **Mark-A**. Copy of the same is handed over to learned counsel for the respondents who does not dispute the aforementioned amount as payable as minimum wages payable to an unskilled labourer for the aforementioned period. Accordingly, the monthly contribution of the deceased housewife Gurdev Kaur to her family is taken as ₹1750/- instead of ₹1,000/- taken into account by the learned Tribunal.

7. As per decision of this Court in FAO No.3483 of 2013 in case titled as “**Cholamandalam M.S. General Insurance Company Limited versus Lakhmi Chand & others**” decided on 26.02.2015 neither benefit of future prospects is to be granted nor any deduction towards personal expenses is to be made where the claimants are unable to prove that the deceased was earning and notional contribution is taken into account for the purpose of computation of compensation. Accordingly, in view of the decision in **Cholamandalam’s** case (supra), award is modified to the extent that compensation payable to the appellant-claimants would be

without any deduction towards personal expenses of the deceased, however, the appellant-claimants would not be entitled to future prospects.

8. As regards application of wrong multiplier, it needs mention that as per the postmortem report the deceased was 45 years of age therefore, in accordance with paragraph No.42 of the decision of Hon'ble the Supreme Court in **Sarla Verma vs Delhi Transport Corp. and another**, 2009 (3) RCR (Civil) 77, multiplier of 14 is applicable. Accordingly, as against multiplier of 11 applied by the learned Tribunal, multiplier of 14 shall be applied while working out the compensation payable.

9. No amount was paid on account of funeral expenses, loss of estate or for that matter, loss of consortium. Accordingly, as per paragraph No.61(viii) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others-2017(4) RCR (Civil) 1009**, the appellants are held entitled to award of compensation of ₹15,000/- on account of funeral expenses, ₹15,000/- on account of loss of estate while the husband is held entitled to ₹40,000/- on account of loss of spousal consortium. However, as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhru Ram**, 2018(4) RCR (Civil) 333, each of the two children of the deceased are held entitled to ₹40,000/- on account of loss of parental consortium. However, in view of the subsequent decision of Hon'ble the Supreme Court in **Vimla Devi and others vs National Insurance Company Ltd. and others** decided on 16.11.2018 in Civil Appeal No.11042 of 2018 (arising out of SLP (C) No.17321 of 2016), award of compensation on account of loss of spousal/parental consortium is restricted to ₹1,00,000/-. Further, ₹5,000/- received by the appellants

Gurdev Kaur from the Government by way of interim compensation is ordered to be deducted out of the final compensation payable.

10. Learned counsel for the respondent-PRTC has fairly not opposed the claim for enhancement in the light of the position as noted above.

11. Accordingly, in the light of the position as noted above, the appellants are held entitled to the following compensation:

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Monthly Income	1000/-	1750/-
2	Future prospects	Nil	Nil
3	Deduction towards personal expenses of deceased.	50%	Nil
4	Multiplier applied	11	14
5	Compensation awarded	500x12x11=66,000/-	1750x12x14=2,94,000/-
6	Loss of consortium	Nil	40,000/- to husband on account of loss of spousal consortium 40,000/- to each of the two children on account of parental consortium i.e. 80,000/- however, in view of Vimla Devi's case (supra), the loss of spousal and parental consortium is restricted to 1,00,000/-
7	Funeral expenses	Nil	15,000/- - 5,000/-(awarded by the Govt.) =10,000/-
8	Loss of estate	Nil	15,000/-
9	Total	66,000/-	4,19,000/- - 50,000/-(awarded by the Govt.) =3,69,000/-

12. Accordingly, in the light of the position as noted above, the appellant-claimants are held entitled to award of compensation of ₹3,69,000/- as against compensation of ₹66,000/- awarded by the learned Tribunal along with interest @ 9% per annum on the enhanced amount with

effect from the date of claim petition till date of payment less amount, if any, already paid.

13. Accordingly, appeal is allowed. Award dated 22.11.2001 passed by the learned Tribunal is modified to the extent as noted above.

14. Copy of this order be sent to the appellants.

February 13, 2019

(B.S. Walia)
Judge

ps

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