

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

**F.A.O. No.2504 of 2009 (O&M)
Date of Decision: 08.05.2019**

Soma Devi and another

.....Appellants.

Versus

Sukhdev Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Arun Abrol, Advocate
for the appellants.

Mr. Lovish Rattan, Advocate
for Mr. Surinder Sharma, Advocate
for respondents no.1 and 2.

Mr. D.P.Gupta, Advocate
for respondent no.3.

Mr. Sandeep Godara, Advocate
for Mr. APS Rehan, Advocate
for respondent no.4.

LISA GILL, J.

Appellant-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Amritsar (for short 'tribunal'), vide impugned award dated 31.10.2008, on account of death of Ranjit Singh @ Ranjit Kumar.

Appellants-claimants are parents of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Ranjit Singh @ Ranjit Kumar (deceased) along with his father and uncle were going to village

Dhudhrai on 09.03.2002, to see their relatives. While returning home, Ranjit Singh @ Ranjit Kumar was driving a motorcycle bearing registration no. PB-02-Z-5374 belonging to his brother. His father and uncle were coming on their scooter. Motorcycle of Ranjit Singh @ Ranjit Kumar was going in front of their scooter. When they crossed the bus stand of village Mehal Bukhari, one oil tanker bearing registration no. PB-08-K-9435 came from the opposite side in a rash and negligent manner and struck against the motorcycle of Ranjit Singh @ Ranjit Kumar on his right side. As a result thereof, Ranjit Singh @ Ranjit Kumar died at the spot. FIR No. 30 dated 09.03.2002, under Sections 279, 427, 304-A IPC, Police Station Ajnala, was registered against respondent no.1, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Sukhdev Singh. Said finding of the learned tribunal has attained finality.

Learned tribunal awarded a sum of ₹5,09,206/- while assessing income of the deceased as ₹4844/-per month. A sum of ₹10,000/- was awarded to respondent no.4 (wife of the deceased) towards loss of consortium.

Aggrieved therefrom, the present appeal has been filed by the appellants-claimants.

Learned counsel for the appellants submits that salary of the deceased has been wrongly assessed as ₹4844/- per month. Learned counsel for the appellants vehemently argues that income of the deceased has not been correctly assessed. Increment on account of future prospects has not

been afforded. It is further submitted that the learned Tribunal has erred in applying the multiplier. Moreover, compensation under the conventional heads is meagre. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Dismissal of the appeal is prayed for.

I have perused the file and heard learned counsel for the parties.

There is no dispute regarding death of Ranjit Singh @ Ranjit Kumar in a motor vehicle accident which took place on 09.03.2002 due to the rash and negligent driving of the offending oil tanker bearing registration No.PB-08-K-9435 by respondent No.1-Sukhdev Singh.

As per salary slip, Ex.PW4/A, salary of the deceased, who was working as a constable with CISF Unit JNPT Sheva, for the month of February 2002, was ₹5699/-. It is only the amount of ₹175/- towards tax which has to be deducted. Deduction towards GPF etc., could not have been effected from the salary while calculating the income of the deceased. Income of the deceased is thus assessed as ₹5524/- per month i.e., ₹5699 - ₹175.

As the deceased was admittedly about 31 years old at the time of accident, increase in income at the rate of 40% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Deduction of 1/ 3rd has to be applied. In

terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**, multiplier of 16 instead of 18 is to be applied as the injured-appellant was 31 years old at the relevant time.

Appellants are entitled to ₹15,000/- each towards funeral expenses and loss of estate. Instead of ₹10,000/-, widow of the deceased is entitled to ₹40,000/-. Appellants i.e., parents of the deceased, are held entitled to ₹40,000/- on account of loss of filial consortium. Reference in this regard can gainfully be made to the judgement of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333**, as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Appellants-claimants and respondent no.4 are, thus, entitled to compensation which is reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹5524/- p.m.
2.	Total income after addition at the rate of 40% on account of future prospects	₹5524 + (5524 x 40%) = ₹7734/-
3.	Deduction of 1/ 3 rd on account of personal expenses	₹7734 – (7734 x 1/3) = ₹5156/-
4.	Total dependency after applying a multiplier of 16	(5156 x12 x 16) = ₹ 9,89,952/-
5.	Loss of estate	₹15,000/-
6.	Funeral expenses	₹15,000/-
7.	Consortium to widow of the deceased	₹40,000/-
8.	Filial consortium	₹40,000/-
	Total	₹10,99,952/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the entire amount of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement as determined by the learned Tribunal shall remain the same.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

08.05.2019

s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.