

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

FAO No. 2744 of 2013 (O&M)  
Date of decision: 21.5.2019

Paramveer Kaur and others

...Appellants

Versus

Jagtar Singh and others

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. J.S. Bhinder, Advocate,  
for the appellants.

Mr. Sudesh Sahi, Advocate,  
for respondents No. 1 and 2.

Mr. Paul S. Saini, Advocate,  
for respondents No. 3.

**JAISHREE THAKUR, J.**

This appeal seeks to challenge the award dated 5.12.2012 passed by the Motor Accident Claims Tribunal, Sangrur, wherein the appellants herein have been allowed compensation of ₹10,70,000/- on account of death of Raminder Pal Singh Chouhan.

In brief, the facts are that on 23.8.2011 deceased Raminder Pal Singh Chouhan was coming from his house and when he he had just crossed the divider of the main road Sunam to Snagrur, he was hit by a bus PB31D-4109, being driven by respondent No.1 in rash and negligent manner, as a result of which the head of Raminder Pal Singh Chouhan got crushed on the rear tyres of the bus from the driver side and he died on the spot. It was

alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR 190 dated 23.8.2011 came to be lodged under Sections 304-A and 279 IPC. With these averments, claim petition was filed by the mother, widow and the children of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was a practising lawyer and was earning between ₹60,000/- to ₹80,000/- per month.

The claim petition was contested by the respondents. On completion of the pleadings, issues were framed and thereafter evidence was led by the parties to establish their claim.

After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹10,70,000/-, which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the compensation amount awarded to the appellants deserves to be enhanced. It is submitted that the deceased was a practicing lawyer since 20 years and his monthly income was between ₹60,000/- to ₹80,000/- per month. It is further submitted that the Tribunal has not granted adequate compensation under the conventional heads. It is also submitted that no amount on account of future prospects has been awarded.

Per contra, learned counsel appearing on behalf of the respondents submit that adequate amount of compensation has been

awarded by the Tribunal and no interference is called for by this Court in the impugned award.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 49 years of age and was earning ₹10,000/- per month. The Tribunal deducted 1/3<sup>rd</sup> towards personal living and expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal observed as under:-

*“The income tax returns or the bank account have not been produced by the claimants to prove the income of the deceased, although the claimants have proved on record the certificate of the Bar Association, Sunam and the copy of Identity Card of the deceased to prove that he was practicing Advocate.*

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*The claimants have failed to establish record the account books, bank account in the shape of statement of account and insurance policy of the deceased, documents for owning vehicle etc. so that his income may be assessed from spending also...”*

Thus, in the absence of the concrete evidence being produced on the record, the Tribunal has rightly taken the income of the deceased as ₹10,000/- per month. The Tribunal keeping in view the nature of the evidence brought on record arrived to the conclusion that the deceased was 49 years of age and while applying the multiplier of 13 rightly awarded the amount of compensation, as mentioned above. However, increase in income on account of future prospects at the rate of 25% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme

Court in **National Insurance Company Limited Vs. Pranay Sethi and**

**others 2017 (4) R.C.R. (Civil) 1009.** Therefore, compensation payable to the appellants are re-worked and tabulated as under:-

| <i>Sr. No.</i> | <i>Heads</i>                                                      | <i>Calculation</i>                           |
|----------------|-------------------------------------------------------------------|----------------------------------------------|
| (i)            | Name of the deceased                                              | Raminder Pal Singh Chouhan                   |
| (ii)           | Date of accident                                                  | 23.8.2011                                    |
| (iii)          | Age of the deceased                                               | 49 years                                     |
| (iv)           | Monthly income of the deceased                                    | ₹ 10,000/-                                   |
| (v)            | 25% of (iv) is to be added towards future prospects               | (₹ 10,000+₹2500)=<br>₹ 12,5000/- per month   |
| (vi)           | 1/3 <sup>rd</sup> of (v) above deducted towards personal expenses | (₹ 12,500-₹4167) =<br>₹ /- 8,333/- per month |
| (vii)          | Compensation calculated after applying the multiplier of 13       | (₹8333X12X13) =<br>₹ 12,99,948/-             |
| (viii)         | Funeral expenses                                                  | ₹ 15000                                      |
| (ix)           | Compensation for loss of consortium                               | ₹ 40000                                      |
| (x)            | Compensation for loss of estate                                   | ₹ 15000                                      |
| Total          |                                                                   | ₹13,69,948                                   |

As a sequel of my discussion above, the appeal is allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 13,69,948/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the instant till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

**21.5.2019**  
prem

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes  
No