

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

**F.A.O. No.6292 of 2016 (O&M)
Date of Decision: 20.02.2019**

Harpreet Kaur @ Jaswant Kaur and another

.....Appellants.

Versus

State of Haryana and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Rajesh Goyal, Advocate
for Mr. Deepak Saini, Advocate
for the appellants.

Ms. Gagandeep Kaur, AAG.,Haryana.

Mr. Deepak Chandhar, Advocate
for Mr. Ram Avtar, Advocate
for respondent no.3-Insurance Company.

LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala (for short 'tribunal'), vide impugned award dated 05.03.2016, on account of death of Simranjit Singh.

As per the averments in the claim petition under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Simranjit Singh, on 19.05.2015 at about 2.15.p.m., was going to Preet Nagar, Ambala City from ITI, Ambala on an Activa bearing registration no. HR-02-AE-7428. In the meantime, a bus bearing registration no. HR-37-C-6875, driven by respondent no.2 in a rash and negligent manner, came from Police Line side

and struck against the Activa of Simranjit Singh from behind. Due to the impact, Simranjit Singh along with Activa fell on road and front tyre of the offending vehicle ran over the head of Simranjit Singh. As a result thereof, Simranjit Singh died at the spot. Postmortem was conducted at Civil Hospital, Ambala City. FIR No.146 dated 19.05.2015, under Sections 279, 304-A IPC was registered at Police Station Baldev Nagar, against respondent no.2-Mahavir, in this respect.

Deceased was claimed to be 18 ½ years old at the time of the accident and a student of ITI, Ambala. He was additionally claimed to be earning ₹7000/- per month as he used to teach turban tying to Sikh youths. It was claimed that father of Simranjit Singh had died 14 years ago and he was looking after his widow mother and unmarried sister.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.2-Mahavir. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹6000/- per month. Multiplier of 18 was applied by the learned tribunal. Deduction of 1/ 3rd was applied. A sum of ₹1,00,000/- each was awarded on account of loss of love and affection to the claimants. ₹25,000/- was awarded towards funeral expenses. Learned tribunal awarded a sum of ₹10,89,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹6000/- per month as it has been

proved on record that the deceased has cleared his matriculation and was a student of ITI, Ambala at the time of his death. Moreover, specific evidence has been led to prove that he was also giving lessons' of turban tying. It is however submitted that the appellants have no objection in case the compensation under the conventional heads is re-worked in terms of the judgements of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009** and **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, 2018(4) R.C.R (Civil), 333**. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

Learned counsel for respondents, while refuting the above arguments, submit that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

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

There is no dispute regarding the death of Simranjit Singh in a motor vehicle accident which took place on 19.05.2015 due to rash and negligent driving of bus by its driver-respondent no.2-Mahavir. Learned tribunal while accepting that the deceased-Simranjit Singh was a student of ITI, Ambala, doing the course of book-binding, has observed that there is no evidence on record that he was running a school by the name and style of D.S. Pagri Center, thereby earning a sum of ₹7000/- per month. A perusal of record reveals that PW-1-Harpreet Kaur, mother of the deceased-Simranjit Singh, specifically deposed that the deceased besides being a student of ITI,

Ambala used to teach Sikh children how to tie turbans and he was earning a sum of ₹7000/- per month therefrom. PW-2-Harsh Deep Singh and PW-3-Deepak Singh, have also deposed that the deceased used to teach turban tying to children. Photographs/pamphlets Ex.PW3/B and Ex.PW3/C are available on record to indicate that the deceased was indeed teaching children how to tie turbans. In such a situation, claimants could not be expected to produce any other evidence to prove their claim. However, there is no conclusive evidence to indicate the amount earned by the deceased in this manner. Taking in account the fact that the deceased was a matriculate, a student of ITI, Ambala doing the course of book-binding and engaged in teaching children how to tie turbans, it is considered just and appropriate to assess the income of the deceased to be ₹9000/- per month.

Future prospects at the rate of 40% are afforded in view of the judgement of the Hon'ble Supreme Court in **Pranay Sethi 's case (Supra)**. The deceased is survived by his widow mother and unmarried sister, therefore deduction of 1/3rd, instead of 50% has been correctly applied by the learned tribunal, keeping in view the guidelines 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 18 has also been correctly applied by the learned tribunal. Instead of ₹25,000/- awarded on account of funeral expenses, appellants are entitled to ₹15,000/- each on account of funeral expenses and loss of estate. Instead of ₹1,00,000/- each, awarded to the petitioners towards love and affection, they are entitled to ₹40,000/- each for loss of consortium in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited (Supra)**.

Compensation towards the claimant on account of death of Simranjit Singh, is thus re-worked as under:-

1.	Total income of deceased	₹9000/- p.m
2.	Total income after addition of future prospects at the rate of 40%	₹9000/- (₹9000/-+ ₹3600/-) i.e. ₹12,600/-
3.	Deduction of 1/ 3 rd on account of personal expenses	₹12600/- (₹12600*1/3=₹4200/-) = ₹8400/-
4.	Annual dependency after applying multiplier of 18	₹8400/- x 12 x 18= ₹18,14,400/-
5.	Loss of consortium to appellants @ 40,000/- each	₹80,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of estate	₹15,000/-
	Total Compensation =	₹19,24,400/-

Claimants shall be entitled to interest on the enhanced compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say that the amount, if any, already disbursed to the claimants shall stand deducted. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants, shall enure.

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

20.02.2019
s.khan

[LISA GILL]
Judge

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