

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

**F.A.O. No. 366 of 2017 (O&M)
Date of Decision: 04.12.2019**

Kiran Devi and others

.....Appellants.

Versus

Nachhatar Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Vipul Sharma, Advocate
for Mr. A.K.Spehia, Advocate
for the appellants.

Mr. Vikas Garg, Advocate
for respondent no.1.

Mr. B.B.Menon, AAG, Punjab
for respondents no.2 and 3.

LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Jalandhar (for short 'tribunal'), vide impugned award dated 06.09.2016, on account of death of Balwinder Singh.

Appellants-claimants, are the widow, children and aged mother of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Balwinder Singh (deceased), was going to Jalandhar from Dera Beas, on his motorcycle bearing registration no. PB-02-CL-5937 on 07.03.2015, at about 12.00.a.m.

When he was taking a turn from Bidhipur Railways Crossing, a bus bearing registration no. PB-65-E-2315 of Punjab Roadways, Chandigarh Depot,, being driven by respondent no.1-Nachhatar Singh, in a rash and negligent manner, struck against the motorcycle of Balwinder Singh. As a result thereof, Balwinder Singh received injuries and died at the spot. FIR No. 33 dated 07.03.2015, under Sections 279, 304-A, 427 IPC, Police Station Maqsudan, was registered against respondent no.1, in this respect. Compensation was thus claimed.

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

Learned tribunal while considering the deceased to be a plumber at the Dera Radha Soami Satsang, Beas assessed his income to be ₹8100/- per month and awarded a sum of ₹14,57,010/-, which is detailed as under:-

1.	Total income of deceased	₹8100/- p.m.
2.	Future prospects	30%
3.	Deduction	1/ 4 th
4.	Multiplier	13
5.	Loss of dependency	₹12,32,010/-
6.	Loss of consortium	₹1,00,000/-
7.	Loss of care and guidance for minor children	₹1,00,000/-
8.	Funeral expenses	₹25,000/-
	Total	₹14,57,010/-

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

Learned counsel for the appellants vehemently argues that income of the deceased has been wrongly assessed as ₹8100/- per month, whereas he was entitled to much more. He refers to the statement of CW-3-Ravinder Singh to submit that an education allowance for the three children of the deceased, free accommodation as well as other facilities, were also provided to the deceased. However, it is fairly stated that compensation under the conventional heads be reworked in terms of the judgement 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 Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333**. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

Learned counsel for the respondents 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 and have gone through the record with their assistance.

There is no dispute regarding death of Balwinder Singh aged 47 years, in a motor vehicle accident which took place on 07.03.2015, due to the rash and negligent driving of the offending bus bearing registration No.PB-65-E-2315, by respondent No.1-Nachhatar Singh.

It is evident from the evidence on record i.e. testimony of CW-3-Ravinder Singh as well as the salary certificate, Ex.P-3, that the deceased was in receipt of monthly salary of ₹8100/- per month as well as the

education allowance of ₹750, ₹515/- and ₹750/- per month respectively, in respect to his three children. The details of the facilities/allowances which were available to the deceased as specifically mentioned in certificate, Ex.A-2, are reproduced as hereunder:-

“This is to certify that Late Sh. Balwinder Singh, son of Late Sh. Puran Singh, was working as a Parshadi Sewadar in the capacity of plumber (skilled) at Radha Soami Satsang Beas, Dera Baba Jaimal Singh from 01 March 1991 till the date of his demise on 07 March 2015. He was given the following facilities at the Dera:-

- (i) He was getting an annual parshadi of approximately ₹1,03,000/-.
- (ii) He was provided free accommodation (2 bedroom house).
- (iii) Water was provided free of cost.
- (iv) His first two children were given an education allowance with a maximum amount of ₹24,000/- each per year.
- (v) His children got free breakfast, packed lunch and milk in the evenings while they were at school.
- (vi) Transport was provided to and from school.
- (vii) They were given free coaching in studies as well as sports.
- (viii) Their medical expenses were covered.
- (ix) The family was part of Group Medical and Personal Accident Insurance policies.”

In this view of the matter, learned tribunal has indeed erred in assessing the income of the deceased to be ₹8100/- per month. A sum of ₹2015/- i.e., (₹750/-+₹750/-+₹515/-), towards education allowance, has to be included. It is pertinent to note at this stage that CW-3 has specifically stated that the claimants have vacated the free accommodation provided to the deceased. A sum of ₹1500/-, which is the minimum amount the family would have to spend thereon also has to be included in the component of income. In respect to other facilities i.e., medical expenses, coaching to the

children and transportation facility provided to them, appellants are entitled to a sum of ₹500/- per month. Thus, income of the deceased is assessed as ₹12,115/- (₹8100/- + ₹750/- + ₹750/- + ₹515 + ₹1500/- + ₹500/-) instead of ₹8100/- per month.

It is further evident from the record that the deceased had been employed since 01.03.1991 till his death on 07.03.2015. He was a permanent employee of Dera Baba Jaimal Singh Beas. It is proved by CW-3-Ravinder Singh that gratuity etc., had been duly paid by the employer. Therefore, increment of 30% towards future prospects has been correctly awarded by the learned tribunal. Deduction of 1/ 4th is correctly applied by the learned tribunal. Multiplier of 13 has also been correctly applied by the learned tribunal.

Instead of a sum of ₹25,000/-, towards funeral expenses, appellants-claimants are entitled to a sum of ₹15,000/- towards funeral expenses, besides ₹15,000/- towards loss of estate. Appellant no.1, is entitled to a sum of ₹40,000/- instead of ₹1,00,000/- towards loss of consortium. Appellants no.2 to 4, are not entitled to a sum of ₹1,00,000/- towards loss of care and guidance. They are however, entitled to a sum of ₹40,000/- towards loss of parental consortium. Appellant no.5, is entitled to a sum of ₹40,000/- towards loss of filial consortium in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Ltd.,s case (Supra)** as well as **decision dated 14.03.2019 of this Court in FAO No.2110 of 2018, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others.**

Appellants-claimants, are, thus, entitled to compensation which

is reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹12,115/- p.m.
2.	Loss of income after addition at the rate of 30% on account of future prospects	₹12,115 + (12,115 x 30%) = ₹15,750/-
3.	Deduction of 1/4 on account of personal expenses	₹15,750 – (15,750 x 1/4) = ₹11,812/-
4.	Loss of dependency after applying a multiplier of 13	(₹11,812 x12 x 13) = ₹ 18,42,672/-
5.	Loss of consortium	₹40,000/-
6.	Loss of estate	₹15,000/-
7.	Funeral expenses	₹15,000/-
8.	Parental consortium	₹40,000/-
9.	Filial consortium	₹40,000/-
	Total	₹19,92,672/-

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 enhanced 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.

04.12.2019
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.