

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

FAO No. 4953 of 2017 (O&M)

Date of decision : August 13, 2019

Kuldeep Singh

.....Appellant

Versus

Kirpal Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: None for the appellant.

None for respondents No. 1 and 2.

None for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimant for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal') on account of death of Lovepreet Kaur vide award dated 11.01.2017.

There is no representation on behalf of the parties. However, as the present is a claimant's appeal, I do not find any ground to defer the decision in this matter.

Brief facts necessary for adjudication of the case are that the claimant i.e. father of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Lovepreet Kaur on 15.10.2015 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, i.e. Tractor bearing registration No. PB-44-A-5066 by respondent No.1. It is claimed that the deceased, 18 years old at the time of the accident, was a student of 10+2 class. She also used to do household work as well as look after diary

farming. Monthly income of the deceased was claimed to be ₹15,000/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Lovepreet Kaur died in the accident, which took place on 15.10.2015 due to rash and negligent driving of the offending Tractor, bearing registration No. PB-44-A-5066, by respondent No. 1. Finding of the learned Tribunal on this issue has attained finality. Learned Tribunal while accepting the deceased to be 18 years old and studying in 10+2 class, assessed her income to be ₹4,000/- per month and awarded a sum of ₹8,79,000/- with interest at the rate of 7% per annum from the date of filing of the claim petition till date of actual realisation of the award. Multiplier of 18 was applied as the deceased was 18 years old at that time. Additionally, a sum of ₹10,000/- on account of funeral expenses was awarded besides a sum of ₹5,000/- on account of transportation.

Aggrieved of the quantum of compensation, claimant has filed this appeal seeking enhancement thereof.

It is stated in the grounds of appeal that income of the deceased has been wrongly assessed. Increment on account of future prospects should be afforded and enhancement of compensation under the conventional heads is also prayed for.

I have carefully gone through the available file.

Death of Lovepreet Kaur in a motor vehicle accident, which took place on 15.10.2015, caused due to the rash and negligent driving of Tractor bearing registration No. PB-44-A-5066, driven by respondent No.1, is proved on record. The learned Tribunal accepted Lovepreet Kaur to be an eighteen (18) years old student of 10+2 at the time of her death. This Court

in FAO No. 1899 of 2016 decided on 15.03.2019 has accepted income of the deceased, who was a student of 11th standard, to be ₹6000/- per month in respect to an accident, which took place on 05.06.2013. It is to be noted, at this stage, that even the minimum wage of an unskilled labourer in the State of Punjab at the time of the accident i.e. on 15.10.2015, was ₹6,935/- per month, therefore, income of the deceased has been wrongly assessed to be ₹4000/- by the learned Tribunal. In view of the facts and circumstances, it is considered just and expedient to assess income of the deceased to be ₹7,500/- per month.

In view of the guidelines of the Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 40% (₹3000/-) is afforded, as the deceased was 18 years old at the time of accident, which takes income of the deceased to ₹10,500/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77**, 50% deduction is to be applied, thereby rendering income of the deceased to be ₹5250/-(10500-5250). Applying a multiplier of 18, dependancy of the claimant is assessed as ₹11,34,000/- (₹5250x12x18). Besides the sum of ₹15,000/- (₹10,000/- funeral expenses and ₹5000/- transportation charges) already awarded by the learned Tribunal for funeral expenses, the claimant is entitled to ₹15,000/- for loss of estate as well. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in **FAO No. 2110**

of 2016 titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others**, appellant i.e. father of the deceased is entitled to ₹40,000/- on account of loss of filial consortium. Claimant is, thus, entitled to total compensation of ₹12,04,000/- detailed as under:-

Loss of dependency(₹5250x12x18)	₹11,34,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹12,04,000/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant is entitled to interest at the rate of 7.5%, instead of 7% per annum on the enhanced amount from the date of filing of the petition till realization.

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

August 13, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No