

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

FAO No.6278 of 2017 (O&M)  
Date of decision: 21.01.2020

Kamaljit Singh ... Appellant

Versus

Charanjit Kaur and ors. ... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Bhupinder Ghai, Advocate for the appellant.

Mr. Viney Saini, Advocate for  
Mr. GS Nagra, Advocate for respondents No.1 to 4.

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**REKHA MITTAL, J. (Oral)**

The present appeal directs challenge against award dated 26.07.2017 passed by the Motor Accidents Claims Tribunal, Fatehgarh Sahib whereby compensation has been assessed on account of death of Karam Singh in a motor vehicular accident that took place on 21.11.2015.

Counsel for the appellant would inform that he confines his grievance only qua quantum of compensation, as has been noticed in the order of notice of motion dated 28.8.2018.

The Tribunal awarded Rs.50,22,000/-, detailed hereunder:-

|                                         |                   |
|-----------------------------------------|-------------------|
| Annual income of the deceased           | Rs.3,00,000/-     |
| Addition in income for future prospects | 30%               |
| Multiplier                              | 15                |
| Deduction for personal expenses         | 1/4 <sup>th</sup> |
| Loss of dependency                      | Rs.43,87,500/-    |
| Expenses on funeral                     | Rs.25,000/-       |
| Loss of estate                          | Rs.10,000/-       |
| Loss of consortium                      | Rs.1,00,000/-     |

Loss of love and affection

Rs.1,00,000/-

Counsel for the appellant would argue that as per plea of the claimants, deceased was working as plumber thereby earning Rs.14,000/- per month. Charanjit Kaur, widow of the deceased in her testimony has reiterated version of the claimants in this regard. Darshan Singh and Davinder Singh witnesses of the claimants have also corroborated testimony of Charanjit Kaur with regard to deceased being plumber and earning Rs.14,000/- per month. It is vehemently argued that the Tribunal without appreciating plea of the claimants and evidence adduced by them has assessed income of the deceased at Rs.25,000/- per month. In addition, it is argued that at the relevant time, minimum wage of a skilled worker was less than Rs.9000/- per month.

Another submission made by counsel is that as per document Ex.C4 produced by the claimants, the deceased was born on 15.12.1972 and as such, he was approximately 43 years old at the time of occurrence in November, 2015. It is argued that addition in income for future prospects and multiplier applied by the Tribunal may be modified accordingly. The last submission made by counsel is that compensation allowed under conventional heads may be restricted to Rs.70,000/-. For this purpose, reference has been made to judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**.

Counsel for the claimants/respondents would fairly inform that he does not dispute date of birth of deceased and his being more than 42 years at the time of unfortunate occurrence. He has supported plea of the claimants that deceased was earning Rs.14,000/- per month by working as plumber.

Be that as it may, it is undisputed position of the case that plea of the claimants is that deceased was earning Rs.14,000/- per month by working as plumber. It is surprising that the Tribunal without examining plea of the claimants and evidence adduced by them has recorded its conclusion in para 21 of the award that deceased was reasonably earning around Rs.25,000/- per month on the basis whereof his annual income was assessed at Rs.3,00,000/-. There is consistent version brought-forth by Charanjit Kaur, Darshan Singh and Davinder Singh that deceased was working as a plumber. The claimants possibly could not adduce any documentary evidence with regard to income of the deceased as a plumber. The deceased left behind his widow, two minor children aged 12 years and 10 years and his widowed mother aged about 80 years. There is no rebuttal to testimonies of witnesses examined by the claimants to prove avocation and income of the deceased. Counsel for the appellant has failed to point out any materials elicited in cross examination of Darshan Singh and Davinder Singh to prove that their testimonies are not worthy of credence and reliance or they are tutored witnesses produced to support cause of the claimants to get maximum compensation. In the given circumstances, the

Court has to rely upon evidence adduced by the claimants vis-a-vis the minimum wage fixed by State of Punjab. Accordingly, income of the deceased is assessed at Rs.14,000/- per month.

As the deceased was close to 43 years, admissible increase for future prospects would be 25% and admissible multiplier is 14. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.22,05,000/- [(14,000 x 12 x 14) + (25% future prospects) – (1/4<sup>th</sup> deduction for personal expenses)]..

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

|                       |             |
|-----------------------|-------------|
| 1. Loss of consortium | Rs.40,000/- |
| 2. Loss of estate     | Rs.15,000/- |
| 3. Funeral expenses   | Rs.15,000/- |

Total compensation is Rs.22,75,000/- and compensation assessed by the Tribunal is reduced to the extent of Rs.27,47,000/- (50,22,000 – 22,75,000). The appellant shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

21.01.2020

ashok

**(REKHA MITTAL)**  
**JUDGE**

|                            |          |
|----------------------------|----------|
| Whether speaking/reasoned: | Yes / No |
| Whether reportable:        | Yes / No |