

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

FAO-1442-2009 (O&M)

Date of decision: December 03, 2021

Lakhwinder Kaur and others

.....Appellants

Versus

Gurdev Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. Harsh Aggarwal, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3.

ARUN MONGA, J

Appellants before this Court, are the claimants of compensation for the death of Gurjit Singh caused in an accident that took place on 04.01.2007 seeking enhancement of compensation and to that extent assailing the award dated 25.10.2008 rendered by learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as 'MACT').

2. Before advertng to the claim of the appellants, facts are being reproduced from the award itself as below:-

“that on 04.01.2007, the deceased was driving his motorcycle No.PB-07-R-9665 and his sister Meena alias Manjit Kaur was sitting on the pillion seat. They were going from their village to Saila Khurd and were being followed by their uncle Iqbal Singh and cousin Baljit Singh on another scooter. It was alleged that at about 6.30 PM when they reached opposite Ravi Dhaba near petrol pump Saila Khurd, a truck bearing registration No.PB-10-BA-0613, which was being driven by respondent No.1-Gurdev Singh rashly and negligent was going ahead of their motor cycle and respondent No.1 all of a sudden turned his truck towards his right side without giving any signal very rashly and negligently, as a result of which the motorcycle of the deceased struck against the said truck and the deceased and his sister Manjit Kaur fell down from their motorcycle and

received serious injuries. They were removed to Civil Hospital Garhsankar by Iqbal Singh, Baljit Singh and others, but they both succumbed to their injuries on the way to the hospital.”

3. Respondents No.1 & 2, driver and owner, respectively, of the offending vehicle in their joint written statement contested the claim saying that on 04.01.2007 at about 6:30 PM, respondent No.1 slowed down his truck for turning towards his right side by indicating and raising his hand, but in the meantime, motorcyclist with a pillion rider came from back side in a rash and negligent manner and due to high speed of the motorcycle, driver could not control the motorcycle and rammed into the right side of the truck. Respondent No.3, on the other hand, contested the validity of the licence and the same being ineffectiveness etc. and therefore, contested its liability on account of the insurance contract.

4. Based on rival pleadings, following issues were framed by the learned MACT:-

“1. Whether Gurjit Singh died in a motor vehicle accident which took place on 04.01.2007 in the area of Ravi Dhaba near petrol pump Saila Khurd on Mahilpur-Garhshankar road due to rash and negligent driving of truck No.PB-10-BA-0613 by respondent No.1? OPA

2. Whether respondent No.1 was not holding a valid driving licence at the time of accident? OPR3

3. Whether the claim petition is bad for non-joinder of necessary parties? OPR3.

4. To what amount of compensation, the claimants are entitled to and from whom? OPA

5. Relief.”

5. On appreciation of evidence, the learned Tribunal decided issues No. 1-3 in favour of the claimant/appellants and against the respondent. Qua issue No. 4, it noted that at the relevant time, the age of Gurjit Singh was 40 years; assessed his income at Rs.3000/- per month, deducted 1/3rd for

personal expenses of the deceased, applied multiplier of 13 and awarded total compensation of Rs. 3,30,000/- to the claimants with interest @ 6% per annum from the date of petition till payment, gave directions on the manner of payment and apportioned amount of compensation *inter se* the claimants - 25% Lakhwinder Kaur widow; 20% each to three minor children and 15% to the father of Gurjit Singh.

6. I have heard the learned counsel for the parties and with their able assistance perused the record of the case. To my mind, the compensation awarded by the learned Tribunal is grossly inadequate and deserves enhancement.

7. Salary certificate dated 20.01.2007 issued by Astecco Contracting (LLC), Building Contractor and Interior Decorator, Dubai (UAE) shows that Gurjit Singh deceased was working since December, 1993 as Electrician-cum-Plumber since December, 1993 in their maintenance department, drawing monthly salary of INR 18,500/-; in addition, the company had provided him free accommodation, transport, water and electricity etc., and that he had proceeded on annual leave as on 14th October, 2006. He had come to India. Having come on leave, obviously he would have gone back to UAE and resumed work with his employer, if he had not died on 04.01.2007. In this view of the matter, I am of the opinion, that his monthly income at the time of death ought to be assessed at Rs.18,500/- as per salary certificate. To my mind, the learned Tribunal erred in assessing his month income as Rs. 3000/-.

8. The deceased being aged 40 years at the time of accident, increase of income by 25% has to be allowed for future prospects in terms

of the judgment of the Constitution Bench of the Apex Court in **National Insurance Company Ltd. Versus Pranay Sethi and Others, (2017) 16 SCC 680.**

9. The learned Tribunal noted that besides his father, the deceased left behind his wife and three minor children. In **Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77**, it was held that multiplier of 15 would apply if the age of the accident victim was 35-40 years and that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-fourth ($\frac{1}{4}$ th) where the number of dependent family members is 4 to 6. To my mind, the learned Tribunal erred in deducting $\frac{1}{3}$ rd instead of $\frac{1}{4}$ th of the income for personal expenses of the deceased and also by applying the multiplier of 13 instead of 15.

10. Taking into consideration the facts and circumstances of the case in view of the formulae laid down by the Hon'ble Supreme Court in the aforesaid judgments, I am of the opinion, the compensation payable to the claimant appellants works out as under:

Victim of accident	Gurjit Singh
Age on the date of accident	40 years
Monthly income	Rs.18,500/-
Add 25% for future prospects	Rs.4,625/-
Total monthly income	Rs.23,125/-
Dependents- father, widow and three minor children	5
Deduct $\frac{1}{4}$ th for personal expenses	Rs.5,781/- say Rs.5,780/-
Monthly dependency of claimants 23125-5780	Rs.17,345/-
Applicable multiplier	15
Compensation for death 17345x12x15	Rs.31,22,100/-
Loss of Filial consortium to father, Conjugal	Rs.2,00,000/-

consortium to widow and Paternal consortium to three minor children of Gurjit Singh 40000x5	
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total compensation payable	Rs.33,52,100/-
Compensation awarded by the Tribunal	Rs.3,30,000/-
Enhancement	Rs.30,22,100/-

11. Accordingly, the appeal is allowed to the extent of enhancing the total amount of compensation payable to the claimant/appellants to Rs.33,52,100/-. The directions in the impugned award on the manner of payment, apportionment of compensation inter se the claimants and payment of interest shall remain unaffected. With this modification in the impugned award, the appeal stands disposed of.

(ARUN MONGA)
JUDGE

December 03, 2021
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No