

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

201

**FAO No.1199 of 1992
Date of Decision: 23.12.2022**

Swaranjit Kaur and others

.....Appellants.

Versus

Premdeep Kaur and others

.....Respondents.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Argued by:- Mr. Amandeep Saini, Advocate, appearing for
Mr. M.L. Saini, Advocate
for the appellants.

Service of notice upon respondents No.1 & 2
dispensed with vide order dated 16.11.2022.

Mr. Aseem Aggarwal, Advocate
for respondent No.3-insurance company.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved and dis-satisfied with the Award dated 12.05.1992 passed by learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal'), whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been awarded compensation to tune of Rs.62,480/-, along-with interest @ 12% per annum from the date of the filing of the claim petition till its realization, on account of the death of Palwinder Singh, they (claimants) have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. As per the brief factual matrix leading to the filing of the present appeal, the claimants filed a petition against the respondents, who are the respective owner, driver and insurer of the Car bearing registration No.DAV-4509 (for short 'the offending vehicle'), for claiming a sum of Rs.11,57,908/- from them as compensation, while averring that on the ill-fated day, i.e 25.12.1990, Constable Palwinder Singh and his colleagues named Baljinder Singh and Harnek Singh, were going from Sekhon Dhaba, Khanna side towards Gurdwara Manji Sahib Kot on the G.T. Road, in connection with patrolling duty. In the meantime, the offending vehicle came from Khanna side and it was being driven by respondent No.2 in a rash and negligent manner at a high speed. Though Palwinder Singh went to the edge of the unmetalled berm on the left side on the road to save himself but he was knocked down by the offending vehicle and he suffered multiple serious injuries in this accident and succumbed to the same in the hospital. Claimant No.1 is the mother whereas claimant No.3 is the father and claimants No.2 and 6 are the sisters and claimants No.4 and 5 are the brothers of the deceased.

3. Respondents No.1 and 2 filed their joint written statement and respondent No.3-insurance company filed its separate written statement, contesting the claim of the claimants therein on various grounds. Then, the issues were framed. After appreciating and evaluating the evidence as led by the parties on the record and hearing their counsel, the Tribunal awarded compensation to the claimants, as already indicated in the opening para of this judgment, while holding the respondents to be liable to pay the same.

4. It is worth-while to mention here that the service of notice upon respondents No.1 and 2, has been dispensed with by this Court vide the order dated 16.11.2022.

5. I have heard learned counsel for the appellants-claimants as well as learned counsel for respondent No.3-insurance company in this appeal and have also perused the file carefully.

6. Learned counsel for the claimants has contended that the afore-named deceased was employed as Constable in Punjab Police and was getting the monthly salary @ Rs.1,677/- (rounded off by the Tribunal to Rs.1680/-) and he was unmarried at the time of his death and it being so, 50% share of his salary was to be deducted towards his personal expenses leaving the remaining half, to be counted towards the dependency of the claimants but the Tribunal has calculated their dependency to the extent of only 1/4th of his salary, i.e Rs.420/- per month and moreover, the multiplier of '12' has wrongly been applied whereas keeping in view the fact that the deceased was 24 years old at the time of the said accident, the multiplier of '18' should have been applied for calculating the amount of compensation and to further add to it, no compensation has been awarded to the claimants towards the loss of consortium, loss of estate, future prospects and funeral expenses as well and in these circumstances, the claimants are entitled to the enhancement of the amount of compensation accordingly.

7. However, learned counsel for respondent No.3-insurance company has argued that the claimants have already been awarded sufficient amount as compensation and therefore, they have no occasion to

ask for any further enhancement in the same.

8. Concededly, the deceased was employed as a Constable with the Punjab Police. In view of the verdict handed down by the Constitution Bench of the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others 2017(16) SCC 680**, the amount equivalent to 50% of the above-mentioned monthly salary of the deceased is to be added therein on the score of future prospects and when so added, his monthly salary would be $\text{Rs.}1680+840=\text{Rs.}2,520/-$.

9. Undisputedly, the deceased was 24 years old and he was a bachelor at the time of the said accident. It being so, 50% of his afore-said monthly salary, i.e $\text{Rs.}1,260/-$, is to be deducted towards his personal expenses and the remaining 50% salary is to be taken as his contribution towards the claimants and their (claimants') annual dependency, so arrived, would be $\text{Rs.}1,260 \times 12 = \text{Rs.}15,120/-$. Keeping in view the above-mentioned age of the deceased at the relevant time, the multiplier of '18' is applicable for calculating the amount of compensation and when so applied, the said amount comes out to be $(\text{Rs.}15,120 \times 18) = \text{Rs.}2,72,160/-$.

10. Besides the afore-said amount, the claimants shall be entitled to the compensation of $\text{Rs.}16,500/-$ towards the loss of estate and another sum of $\text{Rs.}16,500/-$ for the funeral expenses and each of claimants No.1 & 3, being the parents, shall also be entitled to the sum of $\text{Rs.}44,000/-$ on the count of the loss of filial consortium.

11. Accordingly, the enhanced amount of compensation, as shall be payable to the claimants, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Dependency	Rs.60,480/- (Rs.420x12x12)	Rs.2,72,160/- (Rs.1260x12x18) including future prospects @50%	Rs.2,11,680/-
Loss of filial consortium to claimants No.1&3 (parents)	NIL	(44,000X2) =Rs.88,000/-	Rs.88,000/-
Loss of Estate	NIL	Rs.16,500/-	Rs.16,500/-
Funeral Expenses	NIL	Rs.16,500/-	Rs.16,500/-
Total Enhancement:-			Rs.3,32,680/-

12. As a sequel to the foregoing discussion, the appeal in hand is allowed to the effect that the claimants are entitled to the net enhanced compensation amounting to **Rs.3,32,680/-**, over and above the amount of Rs.62,480/- as already awarded to them by the Tribunal and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of the filing of the claim petition till its realization and except the amount of filial consortium which is payable to claimants No.1 & 3 as detailed above, the remaining enhanced amount shall be payable to the claimants in terms of the impugned Award.

December 23rd, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes