

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

**FAO No.2750 of 1999
Date of Decision: 01.12.2022**

Smt. Raj Kumari and others

.....Appellants

Versus

Chhotu Ram @ Theru Ram and others

.....Respondents

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Paramveer Singh, Advocate appearing for
Mr. Sumeet Goel, Senior Advocate
for the appellants.

Mr. Suman Jain, Advocate
for respondent No.3-Insurance Company.

MEENAKSHI I. MEHTA, J.(Oral)

Feeling dis-satisfied with the Award dated 22.07.1999 passed by learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal'), whereby the appellants-claimants (for short 'the claimants') have been awarded compensation to the tune of Rs.3,25,600/-, along-with interest @ 12% per annum, on account of the death of Rattan Singh in a motor vehicular accident, they (claimants) have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. As per the brief factual-matrix culminating in the filing of the present appeal, claimant No.1, the wife of the above-named deceased and claimants No.2 to 6, their children, filed a petition against the respondents,

who are the respective driver, owner and the insurer of the Bus bearing registration No.DL-1P-7429 (for short 'the offending Bus'), for claiming a sum of Rs.5,00,000/- (five lac) from them as compensation, while averring that on 23.06.1996, the deceased, along-with Bhagwant Singh, Jagir Singh and Shanti Parshad, was travelling from Ludhiana to Delhi in a Maruti Van bearing registration No.DL-1CB-3838 and one Prem was driving the same at a slow speed. When they reached near Nilokheri, the offending Bus, which was being driven by respondent No.1 in a rash and negligent manner without observing the traffic rules, came from the opposite direction and it collided with the Maruti Van by coming on the wrong side on the road. All the afore-said occupants of the Maruti Van suffered injuries in this accident and Rattan Singh, Shanti Parshad and Prem succumbed to their injuries.

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 several grounds. The Tribunal framed the issues on 31.03.1997. Then, both the parties led their evidence and after appreciating and evaluating the same and hearing their counsel, the Tribunal has awarded the compensation to the claimants, as already discussed in the opening para of this judgment, while holding the respondents to be jointly as well as severally liable to pay the same.

4. It is pertinent to mention here that Mr. M.B. Jain, Advocate, who had, initially, been representing respondent No.3 in the instant appeal, is stated to have since left the profession and therefore, at the asking of the Court, Mr. Suman Jain Advocate, has appeared on behalf of the said

respondent in this appeal and he as well as learned counsel appearing for the appellants submit that there is no dispute between the parties regarding the liability to pay the compensation. It being so, the service of notice upon respondent No.1-driver and respondent No.2-owner of the offending Bus, stands dispensed with.

5. I have heard learned counsel appearing for the appellants as well as learned counsel for respondent No.3-Insurance Company in the present appeal and have also perused the file carefully.

6. Learned counsel appearing for the appellants contends that the Tribunal assessed the monthly income of the deceased as Rs.2,000/- and it worked out the amount of compensation, payable to the claimants, without adding any amount therein on the score of future prospects and it also did not grant any compensation towards the loss of consortium and the loss of estate and had awarded a sum of Rs.10,000/- only on the count of funeral expenses which is inadequate and in these circumstances, the claimants are entitled to the enhancement in the amount of compensation accordingly.

7. Per contra, learned counsel for respondent No.3-Insurance Company argues that the amount of compensation, as already awarded by the Tribunal to the claimants, is quite sufficient and hence, they have no occasion to ask for the enhancement of the same.

8. The Tribunal has assessed the monthly income of the deceased as Rs.2,000/-. Concededly, the deceased was 40 years old at the time of the accident in question and hence, an addition of 25% in his monthly income is to be made towards the future prospects in the light of the judgment

rendered by the Constitution Bench of Hon'ble the Supreme Court in *National Insurance Company Limited Versus Pranay Sethi and Others* 2017(16) SCC 680 and when so added, the monthly income of the deceased would be Rs.2500/- and after deducting $\frac{1}{4}$ th of the same towards his personal expenses, the amount of annual dependency of the claimants, thus arrived, would be $(2500-625=1875 \times 12)=\text{Rs.}22,500/-$. In view of the afore-mentioned age of the deceased at the relevant time, the multiplier of '15' would be applicable and the amount of compensation, so calculated, comes out to be Rs.3,37,500/-.

9. Besides the above-mentioned amount, the claimants are awarded the sum of Rs.16,500/- towards the loss of estate and another amount of Rs.16,500/- for the funeral expenses and claimant No.1-wife shall be entitled to the compensation of Rs.44,000/- on the count of loss of spousal consortium and each of the claimants No.2 to 6, being the children of the deceased, are also granted the sum of Rs.44,000/- as compensation for the loss of parental consortium. It being so, the enhanced amount of compensation, payable to the claimants, would be as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Dependency	Rs.3,13,600/- (19,600x16)	Rs.3,37,500/- (22,500x15)	Rs.23,900/-
Loss of estate	Nil	Rs.16,500/-	Rs.16,500/-
Loss of spousal consortium to claimant	Nil	Rs.44,000/-	Rs.44,000/-

No.1-wife			
Loss of parental consortium to claimants No.2 to 6	Nil	Rs.44,000/- each 44,000x5=2,20,000/-	Rs.2,20,000/-
Funeral expenses	Rs.10,000/-	Rs.16,500/-	Rs.6,500/-
Total enhancement			Rs.3,10,900/-

10. As a sequel to the fore-going discussion, the appeal in hand is allowed to the effect that the appellants-claimants are entitled to the net enhanced compensation to the tune of Rs.3,10,900/-, over and above the amount of Rs.3,25,600/-, as already awarded to them by the Tribunal and the enhanced amount shall carry the interest @ 7.5% per annum from the date of the filing of the claim petition till its actual realization and shall be payable to them in the same terms as mentioned in the impugned Award.

December 01, 2022
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No