

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

**298**

**FAO-3747-2019 (O&M)**  
**Date of decision: 06.07.2022**

Sandeep Kaur and another .....Appellants  
Versus

Jagtar Singh and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Jaideep Verma, Advocate  
for the appellants.

Mr. Vinod Kumar Gupta, Advocate  
for respondent No.3-insurance company.

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**MANJARI NEHRU KAUL, J. (ORAL)**

The claimants/appellants (widow and minor son of deceased Jasveer Singh) are impugning the award dated 24.04.2019 passed by the learned Motor Accidents Claims Tribunal, Rupnagar (for short, 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 wherein the following compensation was awarded to them on account of death of Jasveer Singh (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 25.03.2018:-

| Sr. No. | Head                                                   | Amount         |
|---------|--------------------------------------------------------|----------------|
| 1.      | Monthly Income                                         | Rs.8,000/-     |
| 2.      | Annual Income                                          | Rs.96,000/-    |
| 3.      | Future Prospects (40%)                                 | Rs.38,400/-    |
| 4.      | Total Annual Income                                    | Rs.1,34,400/-  |
| 5.      | Deduction towards personal and living expenses (1/3rd) | Rs.44,800/-    |
| 6.      | Dependency                                             | Rs.89,600/-    |
| 7.      | Compensation after applying multiplier of 16           | Rs.14,33,600/- |

|     |                    |                |
|-----|--------------------|----------------|
| 8.  | Loss of Consortium | Rs.40,000/-    |
| 9.  | Loss of Estate     | Rs.15,000/-    |
| 10. | Funeral expenses   | Rs.15,000/-    |
| 11. | Medical Bills      | Rs.8,678/-     |
|     | Total Compensation | Rs.15,12,278/- |

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 6% per annum, from the date of filing of the claim petition till actual payment. The appellant/claimant No.1 being widow of the deceased was held entitled to the extent of 60% of the compensation whereas appellant/claimant No.2 being son of the deceased was held entitled to 40% of the compensation amount.

The facts in brief are that on 25.03.2018, the deceased along with his brother Harinder Singh was going to their village on a motorcycle bearing registration No.PB-65G-0452 which was being ridden by the deceased himself. Harinder Singh was following the deceased on his scooter bearing registration No.PB-12E-4951. When the deceased reached near T-Point of SAS Academy, Rupnagar, a Scorpio bearing registration No.PB-05G-0048 came in a rash and negligent manner from the wrong side and hit the motorcycle of the deceased. Resultantly, the deceased fell down and received multiple serious injuries on his person. He was removed to PGIMER Chandigarh, however, he succumbed to his injuries on 02.04.2018. FIR No.64 dated 02.04.2018 was registered against respondent No.2 under Sections 279, 304-A and 427 IPC at Police Station City Rupnagar.

Learned counsel for the appellants/claimants submits that the compensation awarded vide the impugned award is grossly

inadequate and contrary to the settled law as laid down in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*. He submits that even though enough evidence was led before the Tribunal to support the factum of the deceased being a mason, however, the Tribunal gravely erred in treating him as an unskilled worker and assessing his monthly income at only Rs.8,000/- per month. Learned counsel submits that since the deceased was a mason, he should have been instead treated as a skilled worker and his income assessed accordingly. He still further submits that the Tribunal gravely erred in applying a wrong multiplier of '16' even though enough documentary evidence was led in support of the fact that the deceased was 29 years 05 months old at the time of the accident in question. Hence, the correct multiplier of '17' should have been applied as per the settled law. It has also been submitted that even under the conventional heads, the compensation awarded required to be reassessed and modified accordingly.

Per contra, learned counsel for respondent No.3-insurance company submits that in the absence of any proof of income of the deceased to show that he was working as a mason, the Tribunal had rightly treated him as a labourer and assessed his monthly income as per the minimum wages notified by the State Government for the relevant period. He further submits that the claimants had been adequately compensated and thus no interference was warranted in the impugned award.

I have heard learned counsel for the parties and perused the relevant material on record.

This Court has no hesitation in holding that the deceased being a mason should have been treated as a skilled labourer and his income assessed accordingly. Two independent witnesses i.e. Jaswant Singh and Bahadur Singh while stepping into the witness box categorically deposed that the deceased was indeed a mason/building contractor. As per the notification of the State Government for the relevant period, the minimum wages notified qua a skilled worker were Rs.9,529/- per month. The income of the deceased is, therefore, assessed at Rs.9,529/- per month. Since the age of the deceased as per his Aadhaar Card Ex.C/28 was 29 years 05 months on the date of accident, the correct multiplier applicable would be '17' and not '16' which has been erroneously applied by the Tribunal. Further the Hon'ble Supreme Court in ***Pranay Sethi's case*** (*supra*) has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- each for loss of consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement *qua* the above-mentioned conventional heads as per the ratio laid down in ***Pranay Sethi's case*** (*supra*). Hence, the amount of compensation under the convention heads stands modified to Rs. 16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are widow and minor son of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium

respectively.

The compensation thus payable to the claimants would be as follows:-

| Sr. No. | Head                                         | Amount                                         |
|---------|----------------------------------------------|------------------------------------------------|
| 1.      | Monthly Income                               | Rs.9,529/-                                     |
| 2.      | Annual Income                                | Rs.9,529/- x 12 = Rs.1,14,348/-                |
| 3.      | Future prospects (40%)                       | Rs.1,14,348/- x 40% = Rs.45,739/-              |
| 4.      | Total annual income                          | Rs.1,14,348/- + Rs.45,739/- = Rs.1,60,087/-    |
| 5.      | Deductions towards personal expenses (1/3rd) | Rs.1,60,087/- / 3 = Rs.53,362/-                |
| 6.      | Loss of annual future earnings               | Rs.1,60,087/- - Rs.53,362/- = Rs.1,06,725/-    |
| 7.      | Multiplier                                   | 17                                             |
| 8.      | Loss of future earnings                      | Rs.1,06,725/- x 17 = 18,14,325/-               |
| 9.      | Loss of consortium                           | Rs.44,000/- x 2 = Rs.88,000/-                  |
| 10.     | Funeral expenses                             | Rs.16,500/-                                    |
| 11.     | Loss of estate                               | Rs.16,500/-                                    |
|         | Total compensation                           | Rs.19,35,330/- (rounded off to Rs.19,35,300/-) |

The claimants are, therefore, held entitled to a total sum of Rs.19,35,300/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents No.1 to 3 jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

06.07.2022

Vinay

(MANJARI NEHRU KAUL)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No