

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

**FAO No.3150 of 2007
Date of Decision : 09.05.2022**

Parkasho Devi and others

....Appellants

Versus

Gurnam Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jyoti Parshad Sharma, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3/Insurance Company.

PANKAJ JAIN, J. (ORAL)

Claimants are in appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') on account of death of Amar Chand, aged 47 years in a motor vehicular accident dated 22nd September, 2005.

2. As per the claim petition, on 22nd of September, 2005, at about 7:15 PM Satbir son of Banarsi resident of village Keorak informed claimant No.1/wife of the deceased namely Parkasho telephonically that her husband met with an accident with some unknown vehicle and he was lying on the road on account of injuries suffered by him and after receiving the said message she reached at the spot, but by that time, her husband Amar Chand had been shifted to Jindal Hospital, Kaithal. Her husband had received fracture on right forearm and right leg. Doctor referred her husband to

Rajindra Hospital Patiala and, thereafter, while he was being taken in Ambulance No.HR-64/1180 make TATA owned by Kapithal Blood Bank Kaithal. Respondent No.1 was driving the said ambulance at a fast speed, in a rash and negligent manner. When respondent No.1 tried to overtake another vehicle ahead of Jagdishpura bus stand, he lost control over the Ambulance and the same turned turtle and fell in the ditches. The rear window of the Ambulance opened. Amar Chand and Satbir Singh fell out of the said Ambulance and received grievous and multiple injuries. The injured were taken to Shah Hospital Kaithal. Her husband was taken to Civil Hospital Kaithal, where he succumbed to the injuries suffered by him.

3. On the basis of the pleadings, the Tribunal framed the following issues :-

- “1. Whether the accident resulting into the injuries to claimant Parkasho Devi and death of Sh. Amar Chand took place on 22.9.2005 at 10 p.m. due to rash and negligent driving of ambulance no.HR-64/1180 by respondent no.1? OPP.*
- 2. If issue no.1 is proved, whether claimants are entitled to compensation, if so to what amount and from whom? OPP*
- 3. Whether respondent no.1 was not holding any valid and effective driving licence at the time of alleged accident? OPR-3*
- 4. Relief.”*

4. Grievance of the appellants primarily relates to the quantum of compensation.

5. Ld. Counsel for the appellants argues that the income of the deceased has been assessed @ Rs.2400/- per month which is much less than the income of the deceased. Nothing has been paid on account of future prospects. Deceased was merely 47 years of age at the time of accident and the multiplier of 11 applied also needs to be modified as per law laid down in **'Smt. Sarla Verma & others vs. Delhi Transport Corporation & another' (2009) 6 SCC 121.**

6. Per contra, Ld. Counsel for respondent No.3/Insurance Company argued that though it has been claimed by the claimants that the deceased used to work as Munshi and was earning Rs.8,000/- per month but no evidence to this effect was led. The Tribunal has rightly assessed the income of the deceased @ Rs.2400/- per month by treating him as a casual labour. He further asserts that since law laid down by Apex Court in **'National Insurance Company Limited vs. Pranay Sethi and others', (2017) 16 SCC 680** is prospective in nature and, therefore, it cannot be applied to the present case.

7. Having heard Ld. Counsel for the parties and after perusing the record of the case, this Court is of the considered opinion that the claimants are entitled for the benefit of law laid down in **Pranay Sethi's** case (supra). 25% on account of future prospects shall be added to assessed income of Rs.2400/- per month. Admittedly, as per **Sarla Verma's** case (supra), the multiplier applicable will be 13. Accordingly, the same also stands modified. Deduction of 1/3rd on account of personal expenditure has been

rightly applied by the Tribunal. The same needs no modification. Under the conventional heads, the claimants shall further be entitled as per **Pranay Sethi's case** (supra) i.e., Rs.40,000/- (for each claimant) for loss of consortium. Rs.15,000/- for Loss of Estate. Ld. Tribunal has rightly awarded a sum of Rs.20,000/- on account of last rites and thus, the same also needs no modification. The claimants shall further be entitled for interest calculated @ Rs.7.5% per annum from the date of filing of the petition till its realization, as awarded by the Tribunal.

8. As a sequel of the aforesaid discussion, the Award passed by the Ld. Tribunal is modified to the aforesaid extent.

9. The total compensation be calculated accordingly and paid to the claimants/appellants.

10. Needless to say that any amount already paid to the claimants shall be set off.

11. The instant appeal, accordingly, stands disposed off.

12. All the pending miscellaneous applications, if any, are also disposed off.

May 09, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No