

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

FAO-1073-2008 (O&M)
Decided on : 02.05.2022

Madhu Verma and others

..... Appellants

Versus

Kale Khan Sharma Cooperative Transport
Society Ltd. and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Chopra, Advocate and
 Mr. Jashan Chopra, Advocate
 for the appellants.

Mr. R.K.Bashamboo, Advocate
for respondent No.3.

Service upon respondents No.4 and 5
is dispensed with vide order dated 30.03.2022.

Mr. Vinod Gupta, Advocate
for respondent No.6.

Manjari Nehru Kaul, J.(Oral)

Instant appeal has been filed by the appellants-claimants impugned the award dated 02.06.2004 passed by Motor Accidents Claims Tribunal, Ropar (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to injured appellants on account of injuries received by them in an accident on 03.12.2000:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.12,115/-
2	Annual income 12 x 12,000/- (rounded off Rs.12,115/-)	Rs.1,44,000/-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
3	Dependency of claimants 2/3	Rs.96,000/-
4	Multiplier	13
5	Total compensation	Rs.12,48,000/-

The amount of compensation along with interest @ 9% p.a. was ordered to be recovered from two sets of respondents in equal shares. The amount of compensation falling to the share of set of respondents No.4 and 5 was ordered to be recovered from respondent No.6 – Insurance Company and later on insurance company was at liberty to recover the same from respondents No.4 and 5.

Brief facts of the case are thus; on 03.12.2000 at about 2.00 pm appellant Madhu Verma alongwith her husband Dinesh Verma (hereinafter referred to as 'deceased'), her father-in-law Gurdial Verma, Sister-in-law Parbhati, mother-in-law Jaswanti, daughter of elder brother namely Arti, Ruchi and Ashu s/o Dinesh Verma were coming back to Chandigarh after attending a marriage at Hisar, in Maruti Van, bearing registration No.CH-03-C-9622 being driven by Mohan Singh, driver. When the car reached near Titram Mor near Narwana Main Road, a bus bearing registration No.HR-45-0949 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.2 Shiv Charan in a rash and negligent manner came from the back side and collided with their van. In the meantime, a truck bearing registration No.HR-39-5043 driven by respondent No.5 in a rash and negligent manner came from the opposite direction and hit the van, as a result of which, all the occupants of the van received multiple and grievous injuries. Dinesh Verma and Gurdial Verma succumbed to their

injuries at the spot while driver Mohan Singh and Arti succumbed to their injuries while they were being removed to the hospital. FIR No.253 dated 03.12.2000 under Sections 279, 337 and 304-A IPC was lodged at Police Station Sadar Kaithal against the drivers of the bus and the truck.

On being put to notice, respondents put in appearance. Respondents No.4 and 5 i.e. owner and driver of the truck were proceeded against ex parte. Respondents No.1 and 2 i.e. owner and driver of the offending vehicle in their joint written statement denied the allegations and stated that no accident as alleged had taken place, due to the negligent driving of respondent No.2. It was further pleaded that the driver of the van was not having a valid driving licence. Learned counsel for respondent No.3 and 6 -Insurance Companies while filing their separate written statements denied that the accident in question had taken place with the offending vehicle as well as the truck, which was insured with it. They further submitted that the driver of the offending vehicle and the truck in question was not holding a valid and effective driving licence and as such, the insurance company was not liable to indemnify the owner of the vehicles.

On the basis of material and evidence led, the Tribunal awarded the compensation, which already stands reproduced above.

Learned counsel for the appellants *inter alia* contends that though the Tribunal rightly held that the accident in question had occurred due to the rash and negligent driving of the driver of offending vehicle, however, it erred in awarding a meagre compensation in the sum of only Rs.12,48,000/- respectively to the appellants. It is submitted that it was a matter of record that the deceased Dinesh Verma, aged 44 years, was a

government servant, however, Tribunal erred in assessing his monthly income at Rs.12,115/- per month even though he was drawing Rs.14,980/- per month. It is further submitted that the Tribunal has erred by not assessing any amount towards future prospects. It is further pleaded that the mother of the deceased namely Jaswanti was also fully dependent on the deceased, however, the Tribunal yet again has erred in deducting '1/3rd' towards personal expenses instead of '1/4'. It is still further argued that no amount has been assessed and granted by the Tribunal towards loss of filial consortium. Hence, the amount of compensation awarded by the Tribunal was inadequate and required to be enhanced.

On the other hand, learned counsel appearing for the insurance companies submit that the impugned award did not warrant any interference as it was adequate and just. He further submits that the Tribunal had erred in fastening the liability on them by ignoring that the driver of the offending vehicle as well as of the truck was plying without a valid driving licence and thus, there had been violation of the insurance policy.

After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that the compensation awarded by the Tribunal requires to be reassessed in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court. The Hon'ble Supreme Court in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270* 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 filial 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 was also re-assessed by the Hon'ble Supreme Court *in Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344 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 & funeral expenses. Besides this, the claimants, who are parents, are entitled to Rs.44,000/- each, for loss of filial consortium respectively. Still further, the salary of the deceased as per his salary certificate was Rs.14,980/- per month. His monthly income, therefore, shall stand enhanced to Rs.14,980/- per month. The deceased being a 46 years old man and being in a government service shall also be entitled to 30% as future prospects besides 1/4th deduction towards personal expenses as the claimants include his widow, 2 minor children and mother.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.14,980/-
2	Annual income 12 x 15,000/- (rounded off to Rs.15,000/-)	Rs.1,80,000/-
3	Future prospects (30%)	Rs.54,000/-
4	Total income	Rs.2,34,000/-
5	Deduction towards personal expenses (1/4)	Rs.58,500/-
6	Multiplier	14
7	Total dependency	Rs.24,57,000/-
8	Funeral expenses	Rs.16,500/-
9	Loss of consortium(filial) (Rs.44,000 x 4)	Rs.1,76,000/-
10	Loss of estate	Rs.16,500/-
11	Total compensation	Rs.26,66,000/-

The appellants-claimants are, therefore, entitled to a total compensation of Rs.26,66,000/- along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization. Out of the above-said amount Rs.1,50,000/- shall be paid to the mother of the deceased, namely Jaswanti, and the remaining amount shall be paid to appellants No.1 to 3 in equal share.

With the above modifications, the instant appeal stands disposed of.

02.05.2022
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No