

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 5530 of 2009

Date of Decision: 27.10.2022

Beant Kaur and Others

... Appellant(s)

Versus

Surmukh Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. H.S.Tuli, Advocate
for Mr. S.S.Rangi, Advocate
for the appellant(s).

Mr. Raj Kumar Bashambo, Advocate
for the respondent No.3.

Anil Kshetarpal, J.

1. The claimants pray for modification of the award passed by the Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as “the Tribunal”). The correctness of findings of the Tribunal with respect to involvement of the vehicle, the manner of accident and rash and negligent driving of the offending vehicle by respondent No.1-Sh.Surmukh Singh are not in dispute. The only question which requires deliberation is as to the appropriate amount of compensation to which the claimants are entitled.

2. Late Sh.Puran Singh died due to the injuries sustained in a motor vehicular accident on 30.10.2007. It is claimed that late Sh.Puran Singh, after coming back from Dubai, had started driving a cab after purchasing it on 15.09.2007. The accident took place as the offending truck

had struck against the car driven by late Sh.Puran Singh. On account of the

injuries sustained by late Sh.Puran Singh, he died on the way to hospital. An FIR No. 169 dated 30.10.2007 was registered against respondent No.1-Sh.Surmukh Singh.

3. Heard the learned counsel representing the parties and with their able assistance, perused the judgment passed by the Court below and the record, which was requisitioned.

4. It would be noted here that the original paper book of the Court was burnt in an accidental fire and the file has been reconstructed with the help of the learned counsel representing the parties.

5. The Tribunal has assessed the income of late Sh.Puran Singh @ ₹ 3,000/- per month on the ground that he was not the registered owner of the car at the time of his death. On reading of the award passed by the Tribunal, it is evident that PW.3-Sh.Ranjit Singh has appeared in evidence and stated that, originally, he was the owner of the Indica car bearing registration plate No. HR-51-E-6023 and on 15.09.2007, he had sold the car to late Sh.Puran Singh for a consideration of ₹ 80,000/- and had signed the transfer documents. Thus, the claimants have examined the erstwhile owner of the car to prove that late Sh.Puran Singh was not only the driver but the owner of the car as well. Thus, the Tribunal has erred in assessing the income of late Sh.Puran Singh @ ₹ 3,000/- per month which were the wages earned by a casual labourer at the relevant time. In view of the overwhelming evidence, the Tribunal should have, at least, considered late Sh.Puran Singh as a skilled driver. The accident took place on 30.10.2007. Hence, the income of late Sh.Puran Singh could not be less than ₹ 5,000/- per month. He has left behind four dependents, namely the widow, two

minor children and an aged mother. The Tribunal has erred in applying deduction of 1/3rd on account of own expenses of late Sh.Puran Singh. There were 5 members in the family of late Sh.Puran Singh. In such circumstances, the appropriate deduction on account of own expenses is 1/4th. The Tribunal has not awarded any amount on account of increase in the income due to future prospects. As per the five Judges Bench judgment of the Supreme Court in *National Insurance Company Limited v. Pranay Sethi and Others (2017) 16 SCC 680*, the claimants are entitled to addition of 40% in the income on account of future prospects because late Sh.Puran Singh was 36 years of age at the time of his death. Further, on account of loss of consortium, each claimant shall be entitled to ₹40,000/- in view of the judgment passed in *Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and Others RCR (Civil) 333, New India Assurance Company Limited v. Somwati and Others (civil Appeal No. 3093 of 2020, decided on 07.09.2020 and United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur and others (2020) SCOnline 410*. Under the head of funeral expenses and loss of estate, the claimants shall be entitled to an amount of ₹ 15,000/- each.

6. Keeping in view the aforesaid facts, the appeal filed by the claimants is allowed. The enhanced amount of compensation is worked out as under:-

Sr. No.	Heads under which the amount awarded	Amount awarded by the Tribunal (In ₹)	Amount awarded by the High Court (In ₹)
A)	Monthly Income	3,000.00	5,000.00
B)	Future Prospects	NIL	2,000.00 (40% of the income assessed)

Sr. No.	Heads under which the amount awarded	Amount awarded by the Tribunal (In ₹)	Amount awarded by the High Court (In ₹)
C)	Income Assessed after adding future prospects	NIL	7,000.00
D)	Deduction on account of his own expenses.	2,000.00 (3,000 – 1,000 i.e. 1/3rd of the monthly income)	5,250.00 (7,000-1,750 i.e. 1/4th of the monthly income)
E)	Total dependency Assessed per month	2,000.00	5,250.00
F)	Annual dependency	24,000.00 (2,000 x 12)	63,000.00 (5,250 X 12)
G)	Amount assessed after applying Multiplier	3,84,000.00 (24,000 x 16)	9,45,000.00 (63,000 x 15)
H)	Funeral Expenses	NIL	15,000.00
I)	Loss of Estate	NIL	15,000.00
J)	Loss of Consortium to be awarded @ ₹40,000/- to all the four claimants.	5,000.00	1,60,000.00 (40,000x4)
K)	Total compensation awarded	3,89,000.00	11,35,000.00
L)	Amount of compensation enhanced by this Court	7,46,000/- (11,35,000 – 3,89,000)	

7. The claimants shall also be entitled to interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the enhanced amount of compensation.

(Anil Kshetarpal)
Judge

October 27, 2022
“DK”

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