

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

FAO No.4195 of 2011

Date of decision : 21.04.2022

Raj Singh and others

....Appellants

Versus

M/s Punjab Containers Services (Registered) and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amit Arora, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Subhash Goyal, Advocate
for respondent No.3.

PANKAJ JAIN, J. (ORAL)

Claimants are in appeal seeking enhancement of the compensation awarded vide Award dated 20th January, 2011 passed in MACT Case No.7 of 2009, by Motor Accident Claims Tribunal, Tarn Taran (for short, 'the Tribunal').

2. Claimants filed instant claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Pargat Singh, aged 24 years in a vehicular accident. As per the claimants, the deceased was working as driver on Esteem Car No.PB-26A-0006 owned by one Tota Singh of Jandiala Guru. On 28th November, 2008, the deceased was going from Jandiala to Ludhiana in his vehicle which was hired by one Sarbjit Singh. His vehicle was being followed by one other

Sarbjit Singh etc. in a Tata Sumo No.DL-3C-5874. When their vehicles reached near Dhuman Petrol Pump, Phillaur at about 4.30 PM, a Container (truck) PB-08L-6686 belonging to respondent No.1 came from the opposite direction being driven by respondent No.2 rashly and negligently and after coming to the wrong side of the road, hit the car of the deceased, dragged it to the ditches, as a result of which, Pargat Singh died at the spot. On the basis of the pleadings, the Tribunal framed following issues :-

- “1. Whether Pargat Singh died in a vehicular accident on 28.11.08 at about 4.30 PM near Dhuman Petrol Pump, Phillaur when respondent No.2 struck truck (Container) No.PB-08L-6686 rashly and negligently against car No.PB-26-A-0006 being driven by the deceased? OPA*
- 2. Whether claimants are entitled to receive compensation? If so, from whom and to what amount? OPA*
- 3. Whether the petition is maintainable? OPA*
- 4. Whether the petition is bad due to non-joinder of necessary parties? OPR*
- 5. Whether respondent No.2 was not holding a valid and effective driving licence at the time of accident? OPR3*
- 6. Whether the insured violated the terms and conditions of the insurance policy. If so, its effect? OPR3*
- 7. Whether the truck (container) was not having the valid RC/fitness certificate and route permit. If so, its effect ? OPR3.*

8. *Relief.”*

3. Issue No.1 was decided in favour of the claimants holding that deceased Pargat Singh lost his life in a vehicular accident on account of rash and negligent driving by respondent No.2. Primary grievance of the appellants is *qua* Issue No.8 wherein the claimants have been awarded meager compensation of Rs.59,000/- to be apportioned by them in equal shares against respondent No.1 and 2, who have been held to be liable jointly and severally. The claimants have been entitled to recover the compensation amount from the Insurer i.e. respondent No.3, who has been granted recovery rights against respondents No.1 and 2.

4. Pleading a case for enhancement of compensation, Counsel for the appellants has submitted that the Tribunal fell in error in assessing the income of the deceased which has been taken to be Rs.3,000/- per month which is much less in comparison to the notification issued by the Government of Punjab, as the minimum wages for the relevant period were Rs.4375/- per month. He has placed reliance upon the Notification dated 10th October, 2008 issued by the Government of Punjab, Department of Labour, during the course of the arguments. He further prays that apart from the aforesaid enhancement in the income component the appellants shall be entitled for enhancement in conventional heads as well as future prospects as per law laid down in the case of ‘National Insurance Company Limited vs. Pranay Sethi and others’, (2017) 16 SCC 680.

5. Per contra, counsel for respondent No.3/Insurance Company has argued that the present claim petition has been filed by siblings of the deceased who were not dependent upon him and thus, the same will not be maintainable.

6. I have heard counsel for the parties and have carefully gone through the record of the case.

7. With respect to the maintainability of the claim petition at the hands of the siblings of the deceased, specific issue was framed before the Tribunal i.e. Issue No.2. The same has been answered in favour of the claimants relying upon the law laid down by the Supreme Court in case of **'Hafizun Begum vs. Md. Ikram Haque & others', 2007(10) SCC 715.** Neither of the respondents has preferred appeal. Thus in view of settled proposition of law and the fact that the finding on Issue No.2 has not been assailed by either of the respondents, the objection raised by counsel for respondent No.3 w.r.t. maintainability of the petition at the hands of siblings of the deceased, sans merit. The claim petition is held to be maintainable.

8. It has been proved on record that deceased Pargat Singh, aged 24 years was employed as a driver. In the absence of cogent material on record, his income thus needs to be assessed as per the minimum wages notified by the State of Punjab vide Notification dated 10th of October, 2008 (date of accident is 28th November, 2008), which have been notified as Rs.4375.00/- per month. The same is thus enhanced to Rs.4375.00/- per

month.

9. As per guidelines laid down in **Pranay Sethi's case (supra)** further component of 40% on account of future prospects needs to be added. Keeping in view that the deceased was unmarried, deduction of 1/2 has been rightly applied by the Tribunal. As per law laid down by Apex Court in case of **'Smt. Sarla Verma & others vs. Delhi Transport Corporation & another' (2009) 6 SCC 121**, owing to the age of the deceased i.e. 24 years, multiplier applicable will be 18. The Tribunal has awarded funeral expenses of Rs.5,000/-, which is enhanced to Rs.10,000/-. Nothing has been awarded under the heads of loss of estate and loss of consortium. The claimants shall also be entitled for a sum of Rs.10,000/- for loss of estate and Rs.20,000/- for loss of consortium.

10. Consequently, keeping in view the above discussion, the claimants are held entitled to enhanced compensation along with interest @ 6% per annum thereupon, from the date of filing of the claim petition till realization in the manner as stated by the Tribunal. The appellants will be entitled to recover the enhanced compensation from the Insurer i.e. respondent No.3, who shall have a right to recover the same from the Insured.

11. The appeal is allowed. The award passed by the Tribunal stands modified to the aforesaid extent.

12. The total compensation shall be calculated accordingly.

13. Needless to say that any amount already paid to the claimants shall be set off.
14. Ordered accordingly.

April 21, 2022			(PANKAJ JAIN)
Dpr			JUDGE
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No