

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

112

**CM No.22576-CII of 2019 &
FAO No.1788 of 2013
Date of Decision: 09.12.2022**

Gurmail Singh and another

.....Appellants

Versus

Dharam Pal and others

.....Respondents

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Dheeraj Narula, Advocate
for the applicants-appellants.

Mr. Lovepreet Singh Sidhu, Advocate appearing for
Mr. Deepak Kaushik, Advocate
for respondent No.1.

Mr. Apoorv Garg, DAG, Haryana
for respondents No.2 and 3.

Mr. Vinod Gupta, Advocate
for respondent No.4-Insurance Company.

MEENAKSHI I. MEHTA, J.(Oral)

CM No.22576-CII of 2019

This application has been moved on behalf of the applicants-
appellants with a prayer for early hearing of the main appeal bearing **FAO
No.1788 of 2013.**

Notice in the application.

Learned counsel for the respondents accept the notice and they
submit that they have no objection in allowing the present application.

Keeping in view the above-said fact as well as the reasons as mentioned in the instant application, the same is allowed and the aforementioned main appeal is taken on the Board for hearing, today itself.

FAO No.1788 of 2013

Feeling aggrieved and dis-satisfied with the Award dated 07.01.2013 passed by learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal'), whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been awarded compensation to the tune of Rs.3,30,000/-, along-with interest @ 7.5% per annum from the date of the filing of the petition till its realisation, on account of the death of their son named Sham Singh in a motor vehicular accident, they (claimants) have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. Shorn and short of unnecessary details, the facts, culminating in the filing of the present appeal, are that the claimants filed a petition against the respondents, who are the respective driver, owner, controller and insurer of the bus bearing registration No.HR-57-1387 (for short, 'the offending vehicle'), for claiming a sum of Rs.20 lac from them as compensation, while averring that on the fateful day, i.e 01.08.2011, their above-named son had boarded the offending vehicle at the Bus Stand of Village Lambi for going to his school at Village Goriwala and it was being driven by respondent No.1 in a rash and negligent manner at a very fast speed and resultantly, their son fell down from the same and he sustained multiple injuries in this accident and ultimately, succumbed to the same.

3. The respondents filed their respective written statements and contested the claim, as put-forth by the claimants in their petition, on several grounds. The Tribunal put the parties to the trial by framing the issues and after appreciating and evaluating the evidence as adduced by the parties on the record and hearing their counsel, it (Tribunal) allowed the claim petition while awarding the compensation to the claimants, as already discussed in the opening para of this judgment.

4. I have heard learned counsel for the appellants-claimants as well as learned counsel for all the respondents in this appeal and have also perused the file carefully.

5. Learned counsel for the claimants contends that the deceased was aged 18 years and was a hale and hearty boy at the time of the accident in question and besides studying, he was also working as a labourer and was earning Rs.6000/- per month but the Tribunal fell in error in granting the compensation, in lump-sum, while ignoring the afore-said facts and it has also not awarded any compensation towards the future prospects and the loss of estate and moreover, the amount of compensation awarded by the Tribunal for the loss of love and affection and for the funeral expenses is quite inadequate and in these circumstances, the claimants are entitled to the enhancement of the amount of compensation accordingly.

6. Per contra, learned counsel for the respondents argue that the claimants have already been granted more than sufficient amount as compensation and it being so, they have no occasion to ask for any further enhancement in the same.

7. The deceased was a young and healthy boy and was about 18 years old, meaning thereby that he was quite capable of earning income, at least by working as a labourer. Therefore, it would be in the fitness of the things if his monthly income is assessed as per the rate of minimum wages, notified by the State Government to be payable to a daily-wager/labourer, as prevalent at the time of his death in the above-said accident. Learned counsel for both the parties concede that at the relevant time, the prevalent rate of such wages was Rs.4650/- per month and accordingly, the monthly income of the deceased is assessed at the same rate. Further, in view of the verdict as rendered by the Constitution Bench of Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others** **2017(16) SCC 680**, an amount equivalent to 40% of the afore-assessed income of the deceased has to be added therein on the score of the future prospects and when so added, his monthly income comes out to be Rs.4650+1860=Rs.6510/-.

8. Admittedly, the deceased was unmarried/bachelor at the time of his death in the said accident and it being so, 50% of his monthly income, i.e Rs.3255/- is to be deducted towards his personal expenses and after this deduction, the annual dependency of the claimants would be (Rs.3255x12)=Rs.39,060/-. Then, considering the age of the deceased, the multiplier of '18' is to be applied in view of the observations made by the Apex Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009(6) SCC 121** and the amount of compensation, when so calculated, would be Rs.39,060x18=Rs.7,03,080/-.

9. Besides the above-said amount, each of the claimants shall be entitled to the compensation of Rs.44,000/- on the count of the loss of filial consortium and they are also awarded the amount of Rs.16,500/- towards the loss of estate and another sum of Rs.16,500/- for the expenses incurred by them on the funeral and last rites of their son.

10. In view of the afore-discussed facts and circumstances, the enhanced amount of compensation, as shall be payable to the claimants, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Compensation	Rs.3,00,000/-	Rs.07,03,080/- (Rs.39,060x18)	Rs.4,03,080/-
Loss of estate	Nil	Rs.16,500/-	Rs.16,500/-
Loss of filial consortium to appellants	Rs.20,000/- Pain and suffering, love and affection	Rs.88,000/- @ Rs.44,000/- each	Rs.68,000/-
Last rites/ funeral expenses	Rs.10,000/-	Rs.16,500/-	Rs.6,500/-
Total enhancement	Rs.3,30,000/-	Rs.8,24,080/-	Rs.4,94,080/-

11. As a sequel to the fore-going discussion, the appeal in hand is hereby allowed to the effect that the claimants are entitled to the net enhanced compensation amounting to **Rs.4,94,080/-**, over and above the amount of Rs.3,30,000/-, as already awarded to them by the Tribunal and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of the filing of the claim petition till its actual realization and shall

be payable to the claimants in the same terms as mentioned in the impugned Award.

December 09, 2022
pooja

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>