

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

FAO No.3584 of 2013

Date of decision : 06.05.2022

Surjit Kaur and others

....Appellants

Versus

Baljit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vijay Lath, Advocate and
Mr. Naveen Sharma (Moudgil), Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.6/Insurance Company.

PANKAJ JAIN, J. (ORAL)

This is an appeal preferred by the claimants seeking enhancement of the compensation awarded to them by the Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal') on account of death of Dev Raj in a motor vehicular accident dated 29th January, 2011.

2. As per the claim petition, on 29th of January, 2011 while Dev Raj was going on his scooter, he was struck by a Truck bearing Registration No.HP-12-A-5710 being driven at a high speed and in rash and negligent manner. Dev Raj lost his life in the said accident.

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

1. *Whether death of Dev Raj took place in a road accident on 29.1.2011 at about 7.30 PM near village*

Shahpur and whether said accident caused due to rash and negligent driving of Truck No.HP-12-A-5710 by respondent No.2? OPP

2. *If issue No.1 is proved, whether claimants being legal heirs of deceased entitled to get compensation? If so, to what amount and from whom? OPP*
3. *Whether respondent No.2-driver was not having valid and effective driving licence at the time of alleged accident? If so, its effect? OPR*
4. *Whether vehicle in question was not having valid RC, route permit and fitness certificate at the time of alleged accident? If so, its effects? OPR*
5. *Whether petition is bad on account of mis-joinder and non-joinder of necessary parties? If so, its effect? OPR-3*
6. *Whether petition is not maintainable being a case of hit and run? OPR-3*
7. *Relief.”*

4. Appellants herein are primarily aggrieved against the findings recorded by the Tribunal on Issue No.2.

5. Ld. Counsel for the appellants asserts that at the time of accident the deceased was 45 years of age and was working in Forest Department on daily wages and was drawing salary of Rs.4,000/- per month. Nothing has been awarded for the future prospects and the amounts paid under the conventional heads namely loss of consortium and the last rites, have been assessed at Rs.10,000/- and Rs.5,000/- respectively. It is these amounts that Counsel for the appellants asserts need to be enhanced and further submits that nothing has been paid under the head of loss of

estate.

6. Ld. Counsel appearing for respondent No.6/Insurance Company on the other hand submits that the compensation has been rightly awarded and there is no scope for enhancement. He asserts that the guidelines laid down in **‘National Insurance Company Limited vs. Pranay Sethi and others’, (2017) 16 SCC 680** can only have prospective binding effect and cannot be applied retrospectively.

7. Having heard counsel for the parties and in view of guidelines laid down by Apex Court in **Pranay Sethi’s case** (supra), this Court is of the view that the claimants cannot be deprived of future prospects which as per the same, are assessed at 25% of the income of the deceased assessed by the Tribunal. There is no dispute w.r.t. assessment of income of the deceased by the Tribunal thus, the same is maintained at Rs.4,000/- per month. The amounts awarded under the conventional heads also need to be enhanced from Rs.10,000/- to Rs.40,000/- (for each claimant) for loss of consortium and that towards the expenditure for performing last rites of the deceased is enhanced from Rs.5,000/- to 15,000/-. Claimants shall also be entitled for further amount of Rs.15,000/- on account of loss of estate. As per law laid down by Apex Court in case of **‘Smt. Sarla Verma & others vs. Delhi Transport Corporation & another’ (2009) 6 SCC 121,** multiplier of 14 has been rightly applied by the Tribunal thus, the same needs no modification. The claimants shall also be held entitled for interest @ 7.50% per annum as awarded by the Tribunal. The same shall be

payable for the period starting from the date of appeal till actual payment.

8. As a sequel of the aforesaid discussion, the present appeal is allowed in part. The Award stands modified to the extent as stated herein above.

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. Ordered accordingly.

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

May 06, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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SURJIT KAUR AND ORS VS BALJIT SINGH AND ORS

Present :
