

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-4562-2014(O&M)
Date of Order: 07.03.2022

RAJ RANI AND OTHERS

..Appellants

Versus

MOHINDER SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Puneet Sharma, Advocate
for the appellants/claimants.

Service of respondent No.1 and 2
already dispensed with.

Mr. Sandeep Saini, Advocate
for respondent No.3.

ANIL KSHETARPAL, J. (Oral)

The appellants are the claimants in a claim petition filed under the Motor Vehicles Act, 1988. They prayed the Tribunal to grant compensation on account of death of late Sh. Shivdarshan Kumar in an automobile accident on 28.04.2008. The Motor Accident Claims Tribunal (MACT) has awarded a sum of Rs.5,24,000/-.

The learned counsel representing the appellant does not dispute the correctness of finding of the Tribunal with regard to the age, multiplier applied and deduction on account of the self and living expenses. He, however, contends that the Tribunal has erred in awarding an insufficient amount under the following heads:-

- i. Income*
- ii. Funeral expenses*
- iii. Loss of estate*
- iv. Consortium*

As regards the first ground, it may be noted that the deceased was a retired employee from the Cooperative Bank. He was 61 years of age at the time of the accident. The claimants have stated that the deceased used to do typing work as a professional for various advocates in District Courts, Faridkot, Punjab.

Only Sh. Amit Kumar Sharma, Advocate, has been examined as AW-3 who has stated that he used to pay Rs.3,000/- to Rs.4,000/- per month to the deceased. The Court has assessed the income at the rate of Rs.9,000/- per month. In absence of any un rebuttable evidence, the Tribunal has assessed the income after taking into consideration the oral evidence. This Court does not find it appropriate to take a different view in the absence of documentary evidence.

As regards the compensation for funeral, loss of estate and consortium, the matter is covered by the judgment passed by the Five Judge Bench in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC Online SC 1270.**

As per the judgment passed by the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333** which has been reiterated by another Division Bench in **New India Assurance Co. Ltd. vs. Somwati and others, Civil Appeal No.3093 No.2020, decided on 07.09.2020**, and by a three Judge Bench in **United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410**, in which it has been approved that each parent is entitled to Rs.40,000/- as consortium apart from the spousal consortium.

Hence, the claimants are held entitled to Rs.15,000/- towards

funeral expenses, Rs.15,000/- towards loss of estate and Rs.1,20,000/- towards the parental and spousal consortium i.e. loss of love and affection (Rs.40,000/- each).

In view thereof, the amount of compensation is increased by Rs.1,30,000/-, which is calculated as under:-

Heads	Amount awarded by the Motor Accidents Claims Tribunal (MACT).	Amount awarded by the High Court
Income	Rs.9,000	Rs.9,000/-
Deduction	(1/3) Rs.3,000/-	(1/3) Rs.3,000/-
Monthly income	Rs.9,000 – Rs.3,000 = Rs.6,000/-	Rs.9,000 – Rs.3,000 = Rs.6,000/-
Income (Annual) + Multiplier	Rs,6,000 X 12 X 7 =Rs.5,04,000/-	Rs,6,000 X 12 X 7 =Rs.5,04,000/-
Funeral expenses	Rs.10,000/-	Rs.15,000/-
Loss of estate	NIL	Rs.15,000/-
Parental and spousal consortium	Rs.10,000/-	Rs.40,000 X 3 = Rs.1,20,000/-
Total amount awarded (Award)	Rs.5,24,000/-	Rs.6,54,000/-

The increased amount shall be payable along with interest ordered by the Tribunal.

Disposed of.

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

March 07th, 2022

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(ANIL KSHETARPAL)
JUDGE

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