

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

FAO-3847-2016 (O&M)

Date of decision: 22.11.2022

Manpreet Kaur Panesar and others

...Appellants

Versus

Sukhwinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Ms. Ekta Thakur, Advocate for the appellants.

Ms. Madhu Sharma, Advocate for respondent No.1.

Mr. Kunal Muthreja, AAG, Punjab.

H.S. MADAAN, J.

On account of death of Mrs. Paramjit Kaur, aged about 45 years working as a teacher in Hari Krishan Public School, Sector 40, Chandigarh in a road side accident which took place on 23.01.2015 at about 4.20 PM, in the area near round about of Sector 39/40, Chandigarh, statedly on account of rash and negligent driving of bus No.PB46-F-9811 by respondent No.1 Sukhwinder Singh, legal representatives of the deceased namely Ms. Manpreet Kaur Panesar, daughter aged about 19 years, minor son Harkaran Singh, aged about 14 years, mother in-law Smt. Harbhajan Kaur, aged about 69 years, father in-law Sh. Gurcharan Singh, aged about 73 years, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation. In the said

claim petition bearing No.6/C-78 of 2015 filed on 03.03.2015, they had impleaded Sukhwinder Singh-driver, Punjab State Bus and Management Company Ltd., Chandigarh, through its Managing Director and General Managar, owners of the bus as respondents.

It may be mentioned here that Sh. Harjinder Singh husband of the deceased had predeceased her.

Notice of the claim petition was given to the respondents who put in appearance and offered a contest.

After hearing arguments, Motor Accidents Claims Tribunal, Chandigarh, vide award dt. 16.11.2015 accepted the claim petition and awarded compensation of Rs.35,73,800/- with interest @ 7.5% p.a., from the date of filing of petition till actual realization. The liability to pay this amount being joint and several of respondents No.1 to 3.

The claimants were not satisfied with the amount of compensation awarded to them by the Tribunal and they have approached this Court by way of filing of the present appeal seeking enhancement of compensation so awarded. Notice of the appeal was given to the respondents who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The Tribunal after recording a finding that the accident in which Smt. Paramjit Kaur deceased had lost her life was caused on account of rash and negligent driving of the bus in question by its driver Sukhwinder Singh, went on to determine the quantum of compensation payable to the claimants and to fix the liability of the respondents for

payment. While doing so, on analysis of the evidence, the Tribunal came to the conclusion that the deceased was aged about 45 years working as a teacher with Hari Krishan Public School, Sector 40, Chandigarh, earning Rs.23,000/- per month, annual income was worked out to Rs.2,76,000/-.

Considering the age of deceased as 45 years, 30% of the amount is to be added towards future prospects in view of the ratio of authority **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009** and was rightly done by the Tribunal. In that way, monthly income of the deceased comes out to Rs.29,900/-, annual income works out to Rs.3,58,800/-.

The assertion by the claimants that she was earning Rs.30,000/- per month by doing tuition work was however rejected by the Tribunal. The Tribunal deducted 1/3rd of the income towards personal expenses of the deceased. The claimants are aggrieved by extent of such deduction stating that with number of dependents on deceased being four, the deduction should have been 1/4th in terms of the judgment by the Apex Court reported as **Smt. Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil) 77.**

According to learned counsel for the appellants after death of her husband, Paramjit Kaur was the only earning member in the family supporting her unmarried daughter Ms. Manpreet Kaur Panesar, daughter, minor son Harkaran Singh, and aged parents in-law i.e. mother in-law Smt. Harbhajan Kaur and father in-law Sh. Gurcharan Singh and with death of Smt. Paramjit Kaur, the claimants have been deprived of the earning member.

Counsel for the respondents could not controvert the legal position as laid down in judgment Sarla Verma (supra) with regard to deduction towards personal expenses to be taken as 1/4th of the income when number of the dependent family members is 4 to 6. The Tribunal has fallen in error in taking 1/3rd income of deceased towards her personal expenses. That error needs to be rectified. Doing that 1/4th of income of deceased is taken towards personal expenses of the deceased. Resultantly, the dependency of the claimants comes out to Rs.22425/-. Annual dependency comes out to Rs.22425 x 12 = 269100/-

The Tribunal has correctly used multiplier of 14, keeping in view the age of the deceased. Therefore, the total compensation comes out to Rs.3767400/-.

The Tribunal has awarded a sum of Rs.50,000/- each to the claimants under the head loss of love and affection when as per law, they are entitled to Rs.44,000/- each in terms of the judgment Pranay Sethi (supra). The Tribunal has awarded funeral expenses as Rs. 25,000/- when in terms of judgment Pranay Sethi (supra), it should be Rs.16,500/- and further, the claimants are entitled a sum of Rs.16,500/- towards loss of estate. Therefore, the total compensation comes out to Rs.3976400/-. The Tribunal has awarded compensation of Rs.35,73,800/- to the claimants. Thus, an additional compensation payable to the claimants is arrived at Rs.4,02,600/- (Rs.39,76,400 – 35,73,800/-). The claimants would be entitled to get interest @ 7.5% p.a., on additional compensation from the date of filing of claim petition till actual realization. Additional amount would be apportioned amongst the claimants in the same ratio as directed

by the Tribunal with regard to compensation originally awarded.

The appeal stands partly allowed.

22.11.2022

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No