

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

**FAO-7640-2014
Decided on:-29.08.2022**

Deepak Rishi and others

....Appellants..

vs.

Tarlochan Singh and others

....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rajeev K. Kapila, Advocate,
for the appellants.

Mr. Ashwani Talwar, Advocate
for respondent No.3.

HARKESH MANUJA J.

The claimants are in appeal impugning the award dated 02.04.2014 passed by learned Motor Accident Claims Tribunal, Hoshiarpur (for short, "Tribunal"), seeking further enhancement of compensation.

2. Accident in the present case took place on 06.07.2011, wherein, Mrs. Sarita lost her life while driving her Aactiva Scooter bearing No.PB21B-4507 being hit by offending vehicle i.e. Tanker bearing No.JK02 X 9573. Appellants being dependent upon the deceased filed claim petition before the learned Tribunal alleging that the accident took place on account of rash and negligent driving of the offending vehicle, being driven by respondent No.1. Learned Tribunal vide its impugned award dated 02.04.2014, recorded positive finding to the effect that the accident took

place on account of rash and negligent driving of respondent No.1, which resulted into the death of Mrs Sarita w/o Deepak Rishi. Further, considering the age of the deceased as 38 years and monthly income of Rs.32,430/-, she being a government Teacher in Govt. Senior Secondary School (Girls), Bodal, Tehsil Dasuya, District Hoshiarpur, Id. Tribunal awarded a sum of Rs.26,63,200/- as compensation. By way of present appeal, the claimants/appellants have prayed for further enhancement of compensation.

3. It has been contended on behalf of the appellants-claimants that though monthly income of the deceased has been rightly taken to be Rs.32,430/- as she was employed as government Teacher (SST) in Govt. Senior Secondary School (Girls), Bodal, Tehsil Dasuya, District Hoshiarpur, however, no increase of income towards future prospects has been awarded in favour of the appellants/claimants. It has also been contended that considering the age of the deceased to be 38 years, a uniform multiplier of 15 was required to be applied instead of 9 for calculating the amount of compensation.

4. Learned counsel for the appellants further contends that no amount has been awarded on account of loss of consortium and even the amount awarded as compensation on account of funeral expenses as well as loss of estate is also on the lower side.

5. On the other hand, learned counsel for respondent-Insurance Company submits that the compensation awarded to the appellants is just and adequate considering the age as well as the income of the deceased and no further enhancement is called for.

6. Considering the facts and circumstances of the present case

wherein, deceased-Sarita, who was 38 years of age at the time of accident

and was employed as government servant, having monthly salary of Rs.32,430/-, an addition of 50% of the actual salary towards future prospects was required to be awarded, keeping in view the law laid by the Hon'ble Supreme Court in case of ***“National Insurance Company Pvt. Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, relevant paragraph No.61 (iii) is reproduced hereunder:-

“While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case, the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax”.

7. Besides it, in view of paragraph 61 (viii) of the same judgment, appellants are also entitled for consortium @ Rs.44,000/- x 3 i.e. Rs.1,32,000/- and Rs.16,500/- as funeral expenses along with Rs.16,500/- on account of loss of estate as well. Paragraph No.61 (viii) is reproduced hereunder for reference:-

“Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. ”

8. Learned Tribunal has also gone wrong while applying split multiplier considering the age of retirement of deceased being government employee to be 58 years. In view of law laid down by this Court in FAO No.2931 of 2016, decided on 07.09.2017, titled as ***“United India Insurance***

Co. Ltd. vs. Saroj and others”, the practice of applying split multiplier in the absence of specific reason and evidence has been held to be illegal. In the present case, learned Tribunal has failed to record any reasons in this regard, as such considering the age of the deceased to be 38 years, uniform multiplier of 15 was required to be applied for the determination of compensation. Relevant portion of above referred case is reproduced hereunder:-

*“Hon’ble the Supreme Court in **Puttamma and others vs K.L. Narayana Reddy and another, 2014(1) R.C.R. (Civil) 443**, set aside the judgment of the High Court adopting a split multiplier method and further held that in absence of specific reasons and evidence on record, the Tribunal or the Court should not apply split multiplier in routine course and should apply multiplier as per decision of this Court in the case of **Smt. Sarla Verma’s case (supra), Sarladevi and others vs Divisional Manager. In M/s Royal Sundaram Alliance Insurance Company Limited and another, 2014 ACJ (SC) 2391**, Hon’ble the Supreme Court set aside the split multiplier adopted by the High Court. In the said case, deceased was 58 years at the time of accident and the Tribunal had applied multiplier of 8 but the High Court allowed loss of dependency at Rs.10,98000 for the first two years and for the balance 7 years, only 50% annual income was taken into consideration to compute loss of dependency at Rs.19,21,500/-. In **K.R. Madhusudhan and others vs Administrative Officer and another, 2011(2) RCR (Civil) 207 (SC)**, the High Court reduced the compensation granted by the Tribunal. The split multiplier adopted by the High Court was set aside with the observations that the High Court introduced the concept of split multiplier and debarred from the multiplier used by the Tribunal without disclosing any reason. A Coordinate Bench of this Court in **The Oriental Insurance Company vs Smt. Premwati and another,***

*FAO No.6396 of 2012 decided on 27.02.2016 did not accept the judgment of another Co-ordinate Bench **Balbir Kaur vs Manjinder Singh and others**, FAO No.5250 of 2013 decided on 11.12.2014 wherein split multiplier was allowed. The judgment in **Smt. Premwati and another's case (supra)** was challenged by way of petition for special leave to appeal before Hon'ble the Supreme Court but the special leave petition was dismissed on 26.08.2016 and findings of this Court negating plea of the insurance company to apply split multiplier have been affirmed.”*

9. In view of the findings recorded herein above, the appellants are held entitled for the following enhanced compensation, as detailed in the table given hereunder :-

Sr. No.	Particulars	Amount (Rs.)
1	Annual Income of deceased Rs.3,89,160/- (32,430x12) Less income tax Rs.18,960/- Net Income Rs.3,70,200/-	Rs.3,70,200/-
2	Add 50% future prospects	Rs.1,85,100/-
3	Total Income	Rs.370200+185100 =5,55,300/-
4	Deduction (1/3)	Rs.1,85,100/-
5	Multiplier of 15 as per age of 38 years (370200x15)	Rs.55,53,000/-
6	Funeral Expenses	Rs.16,500/-
7	Loss of Consortium	Rs.1,32,000/-
8	Loss of estate	Rs.16,500/-
	Total Compensation	Rs.57,18,000/-
	Amount awarded by the Tribunal	Rs.26,63,200/-
	Enhanced Amount	Rs.30,54,800/-

10. The appellants shall also be entitled for award of interest of 9% per annum on the amount of compensation as awarded to them by the learned Tribunal, from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted out of the enhanced

compensation. The appeal is disposed off in the aforesaid terms.

11. Pending miscellaneous application, if any, stand disposed of.

29.08.2022
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(HARKESH MANUJA)
JUDGE

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