

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

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**FAO-5789-2016 (O&M)**  
**Date of decision: 18.04.2022**

Reshma .....Appellant  
Versus  
Manjinder Singh and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Pankaj Katia, Advocate  
for the appellant.

Ms. Vandana Malhotra, Advocate  
for respondent No.2-Insurance Company.

Mr. Deepak Aggarwal, Advocate  
for respondent No.3.

Mr. Parambir Singh, Advocate  
for respondent No.4.

Mr. N.S. Dandiwal, Advocate  
for respondents No.5 and 6.

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**MANJARI NEHRU KAUL, J. (ORAL)**

**CM-19886-CII-2016**

Prayer in the instant application is for condonation of delay  
of 917 days in filing the appeal.

Learned counsel appearing for the respondents have no  
objection in allowing the application.

In view of the reasons mentioned in the application and no  
objection from the counsel opposite, the application is allowed and  
delay of 917 days in filing the appeal is condoned.

**FAO-5789-2016 (O&M)**

The appellant-widow of deceased Hukam Chand  
(respondent No.5 in the claim petition) is impugning the award dated  
10.10.2013 passed by the learned Motor Accidents Claims Tribunal,  
Moga (for short, 'the Tribunal') vide which an amount of Rs.10,89,937/-

along with interest at the rate of 6 % per annum was awarded as compensation to the claimants and appellant herein in a claim petition filed by them under Section 166 of the Motor Vehicles Act, 1988.

The case of the claimants is that on 08.03.2011, deceased Hukam Chand was travelling in a bus bearing registration No.PB-03W-5731. While deceased was getting down from the bus at Court Complex G.T. Road, Moga, respondent No.1-driver, negligently and without getting any signal from the conductor, started the bus as a result of which the deceased fell down on the road and the bus ran over him. The deceased later succumbed to his injuries on 23.03.2011. It was stated that the deceased was 35 years of age and was working as a mason. He was stated to be earning Rs.20,000/- per month.

The Tribunal awarded compensation in the sum of Rs.10,89,937/- along with interest at the rate of 6 % per annum to the claimants and appellant herein as under:-

| Sr. No. | Head                                        | Amount                                  |
|---------|---------------------------------------------|-----------------------------------------|
| 1.      | Monthly Income                              | Rs.7,000/-                              |
| 2.      | Annual Income                               | Rs.7,000/- x 12 = Rs.84,000/-           |
| 3.      | Deduction towards personal expenses (1/4th) | Rs.21,000/-                             |
| 4.      | Loss of annual future earnings              | Rs.84,000/- - Rs.21,000/- = Rs.63,000/- |
| 5.      | Multiplier                                  | 15                                      |
| 6.      | Loss of future earnings                     | Rs.63,000/-x15 =Rs.9,45,000/-           |
| 7.      | Medical treatment expenditure               | Rs.1,34,937/-                           |
| 8.      | Loss of estate                              | Rs.5,000/-                              |
| 9.      | Funeral expenses                            | Rs.5,000/-                              |
| 10.     | Total compensation                          | Rs.10,89,937/-                          |

Out of the compensation amount of Rs.10,89,937/-, amount of Rs.1,50,000/- was ordered to be paid to the appellant herein while

claimant No.1 was ordered to be paid the medical expenses of Rs.1,34,937/- out of the total compensation and the remaining amount was ordered to be divided equally between the claimants.

Learned counsel for the appellant has challenged the impugned award on the following grounds:-

(i) That the appellant herein was ordered to be given only Rs.1,50,000/- even though being a widow of the deceased she was entitled to equal share as the other claimants as per the settled law.

(ii) That though the appellant had remarried after the death of her husband in the accident in question, however, being the legally wedded wife of the deceased at the time of accident, she was entitled to equal compensation along with the other claimants.

(iii) That the deceased was 35 years of age, however, the multiplier of '15' was applied instead of '16' which was not in consonance with the settled law as laid down in ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121.***

(iv) That the income of the deceased assessed at Rs.7,000/- per month required to be reassessed as the deceased was a skilled person and was working as a mason on contract basis.

(v) That the Tribunal erred in not granting future prospects which should have been 50% in view of the settled law as laid down by the Hon'ble Apex Court in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** and ***Civil Appeal No.9581 of 2018 titled as 'Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram' decided on 18.09.2018.***

(vi) That under the conventional heads also, the amount of

compensation awarded was meagre and against the settled law.

On the other hand, learned counsel appearing for the insurance company while opposing the submissions made by the counsel opposite submitted that no proof of income was produced before the Tribunal and hence the amount of Rs.7,000/- per month was rightly assessed as income of the deceased by taking him to be a skilled worker. Learned counsel, however, conceded that the multiplier of '15' had been erroneously applied instead of '16'. It was also conceded by the learned counsel that while awarding the compensation, future prospects had not been granted and under the conventional heads also the amount awarded was against the settled law.

After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that the compensation awarded by the Tribunal requires to be reassessed in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court in ***Pranay Sethi's case (supra); Civil Appeal No.9581 of 2018 titled as 'Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram' decided on 18.09.2018 and Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344.***

The age of the deceased being 35 years the multiplier of '16' should have been applied instead of '15' as per ***Sarla Verma's case (supra)***. The claimants would be also entitled to 40% towards future prospects as per the settled law.

It would be relevant to mention here that the learned Tribunal gravely erred in awarding just a consolidated amount of

Rs.1,50,000/- to the widow (i.e. the appellant) of the deceased, on the ground that she had since remarried. The appellant was the legally wedded wife of the deceased at the time of the accident and, thus, she cannot be denied compensation as per the settled law.

It would also be relevant to notice that the Hon'ble Supreme Court in *Pranay Sethi's case (supra)* has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- for loss of consortium. Still further, it has also been held that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement with respect to the compensation under the conventional heads as was also held and reassessed by the Hon'ble Supreme Court in *Rasmita Biswal's case (supra)*. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses and Rs.44,000/- each for loss of spousal, parental and filial consortium as the **claimants are widow, mother and son of the deceased.**

This Court, however, does not find any merit in the submissions made by the counsel for the appellant qua the monthly income of the deceased having been assessed on the lower side. As no proof of income was produced before the Tribunal by the claimants, the income assessed at Rs.7,000/- per month by taking the deceased as skilled worker and as per the minimum wages notified by the Government of Haryana for the relevant period, cannot be faulted with.

Resultantly, the compensation awarded by the Tribunal is

reassessed as follows:-

| Sr. No. | Head                                                     | Amount                          |
|---------|----------------------------------------------------------|---------------------------------|
| 1.      | Monthly Income                                           | Rs.7,000/-                      |
| 2.      | Annual Income                                            | Rs.7,000/- x 12 = Rs.84,000/-   |
| 3.      | Future prospects (40%)                                   | Rs.33,600/-                     |
| 4.      | Total Income including future prospects                  | Rs.1,11,600/-                   |
| 5.      | Deduction towards personal expenses (1/3 <sup>rd</sup> ) | Rs.39,200/-                     |
| 6.      | Loss of annual future earnings                           | Rs.78,400/-                     |
| 7.      | Multiplier                                               | 16                              |
| 8.      | Loss of future earnings                                  | Rs.12,54,400/-                  |
| 9.      | Loss of consortium                                       | Rs.44,000/- x 3 = Rs.1,32,000/- |
| 10.     | Funeral expenses                                         | Rs.16,500/-                     |
| 11.     | Loss of estate                                           | Rs.16,500/-                     |
| 12.     | Medical expenses borne by respondent No.5                | Rs.1,34,937/-                   |
| 13.     | Total compensation                                       | Rs.15,54,334/-                  |

The appellant along with respondents No.5 and 6 are, therefore, entitled to a total compensation of Rs.15,54,334/-. Out of this amount, Rs.1,34,937/- would be paid to respondent No.5 for the medical expenses incurred by her and rest of the amount of compensation shall be paid to the appellant along with respondents No.5 and 6 in equal shares along with interest at the rate of 9% per annum from the date of filing of the claim petition till its actual realization and shall be paid jointly and severally by respondents No.1 to 3 herein.

With the above modifications, the instant appeal stands allowed.

18.04.2022

Vinay

(MANJARI NEHRU KAUL)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No