

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

FAO-7304-2016 (O&M)
Decided on : 19.05.2022

Gurjeet Kaur and others

..... Appellants

Versus

Vikasdeep Singh and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. D.S.Sidhu, Advocate
for the appellants.

Mr. Jagjit Singh, Advocate
for respondent No.1.

None for respondent No.2.

Mr. Rajesh Verma, Advocate
for respondent No.3.

Manjari Nehru Kaul, J.(Oral)

CM-25009-CII-2016

Application is allowed as prayed for and delay of 124 days in
filing the appeal is condoned.

Main case

The appellants-claimants by way of instant appeal are
impugning the award dated 07.01.2016 passed by Motor Accidents Claims
Tribunal, Fatehgarh Sahib (hereinafter called as 'the Tribunal') passed in a
claim petition under Section 166 of Motor Vehicles Act whereby following
compensation was assessed and awarded to the appellants on account of
death of Paramjit Singh in a road accident, which took place on
01.06.2014:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.7,000/-
2	Annual income 12 x 7,000/-	Rs.84,000/-
3	Deduction towards personal expenses	Rs.2,334/-
4	Dependency	Rs.4,700/-
5	Total dependency (Rs.4,700 x 12)	Rs.56,400/-
6	Multiplier	16
7	Total amount	Rs.9,02,400/-
8	Medical expenses	Rs.10,78,072/-
9	Attendant Charges	Rs.20,000/-
10	Funeral expenses	Rs.25,000/-
11	Loss of consortium	Rs.1,00,000/-
12	Total compensation	Rs.21,25,472/- (rounded off to Rs.21,25,500/-)

The amount of compensation along with interest @ 7% p.a. was ordered to be paid by the respondents jointly and severally.

Brief facts of the case as pleaded in the claim petition may be noticed as thus; on 01.06.2014 Paramjit Singh (deceased) along with one Harbans Singh was coming from Peerjain to Fatehgarh Sahib on a motorcycle being driven by Harbans Singh. When Harbans Singh and the deceased reached near a brick kiln on Chandigarh road in the area of Peerjain, they saw one of their friends Sukhvir Singh standing with his Lancer car bearing registration No.CH-03P-4960, which was parked on the kacha side of the road. Harbans Singh, on seeing Sukhvir Singh, stopped his motorcycle and parked it in front of the aforementioned car. While they were talking, one Alto car bearing registration No.HR-59-7578 (hereinafter referred as 'the offending vehicle') being driven by respondent No.1 in a rash and negligent manner, came from behind and hit Paramjit Singh.

Resultantly, deceased suffered multiple injuries. The deceased was removed to the hospital, however, during his treatment he succumbed to his injuries. The deceased was 32 years of age and stated to be a farmer and into dairy farming. FIR No.102 dated 03.06.2014 under Sections 279, 337 IPC was lodged at Police Station Fatehgarh Sahib against the driver and the owner of the offending vehicle.

On being put to notice, respondents put in appearance. Respondents No.1 and 2 i.e. driver and the owner of the offending vehicle in their separate written statements denied the allegations and stated that no accident as alleged had taken place, due to the negligent driving of respondent No.1. Respondent No.3 -Insurance Company while filing its separate written statement denied that the accident in question had taken place with the offending vehicle. It was further submitted that the driver of the offending vehicle in question was not holding a valid and effective driving licence and as such, the insurance company was not liable to indemnify the owner of the vehicles.

Learned counsel for the appellants has challenged the impugned award passed by the Tribunal on the following grounds:

- (i) that the deceased was a farmer and into the business of dairy farming; he was earning Rs.25,000/- per month. However, the Tribunal discarded the deposition of the widow of the deceased in the said regard, who stepped into the witness box as PW-3.
- (ii) that the Tribunal erred in treating the deceased as a labourer by taking his income as Rs.7,000/- per month.

- (iii) that under the other conventional heads, the amount of compensation awarded was meagre, inasmuch as the claimants were entitled to 40% on account of future prospects as admittedly the deceased was 32 years of age at the time of accident qua which, however, no compensation was awarded.
- (iv) that even no parental and filial consortium was granted to the minor child and the mother of the deceased respectively. In support of his submissions, he has placed reliance upon ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333.***

On the other hand, learned counsel appearing for the insurance company while opposing the submissions made by counsel opposite submits that the Tribunal had rightly assessed the monthly income of the deceased in the sum of Rs.7,000/- per month by treating him as a labourer since the claimants had not produced any cogent evidence with respect to his income either from agriculture or from the dairy farming. He further submits that the compensation with respect to funeral expenses was on the higher side and not in consonance with 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 settled law in ***Magma General Insurance Co. Ltd's case(supra)***. The Hon'ble Supreme Court in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** has

quantified the amount in the sum of Rs. 15,000/- each for loss of estate and funeral expenses each in addition to Rs. 40,000/- each for loss of parental and filial consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement qua the above-mentioned conventional heads, as was also re-assessed by the Hon'ble Supreme Court *in Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344 as per the ratio laid down in Pranay Sethi's case (supra)*.

Hence, the amount of compensation under the conventional heads stands modified to Rs. 16,500/- each for loss of estate & funeral expenses. Besides this, the claimant No.2 and 3, who are minor child and mother of the deceased, are entitled to Rs.44,000/- each, for loss of parental and filial consortium respectively. The deceased being a 33 years of age shall also be entitled to 40% as future prospects.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.7,000/-
2	Annual income 12 x 7,000/-	Rs.84,000/-
3	Future prospects (40%)	Rs.33,600/-
4	Total income	Rs.1,17,600/-
5	Deduction towards personal expenses (1/3)	Rs.39,200/-
6	Annual dependency	Rs.78,400/-
7	Multiplier	16
8	Loss of annual future earnings	Rs.12,54,400/-
9	Funeral expenses	Rs.16,500/-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
10	Loss of consortium (parental and filial consortium)	Rs.1,32,000/- (Rs.44,000 x 3)
11	Loss of estate	Rs.16,500/-
12	Medical expenses	Rs.10,78,072/-
13	Attendant charges	Rs.20,000/-
14	Total compensation	Rs.25,17,472/- (rounded off to Rs.25,17,500/-)

The appellants-claimants are, therefore, entitled to a total compensation of Rs.25,17,500/- along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization.

With the above modifications, the instant appeal stands disposed of.

19.05.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No