

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

242

**FAO-7314-2016 (O&M)
Date of decision: 31.05.2022**

Bhinder Kaur and othersAppellants

Versus

Pritpal Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arvind Rajotia, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No.3-insurance company.

MANJARI NEHRU KAUL, J. (ORAL)

CM-25020-CII-2016

Prayer in the application is for condonation of delay of 142 days in filing the appeal.

Learned counsel for respondent No.3 has no objection if the application is allowed.

Accordingly, the application is allowed and delay of 142 days in filing the appeal is condoned.

FAO-7314-2016 (O&M)

The claimants/appellants (parents, widow and three children of deceased Gurpreet Singh) are impugning the award dated 01.02.2016 passed by the learned Motor Accidents Claims Tribunal, Patiala (for short, 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 wherein the following compensation was awarded to them on account of death of Gurpreet

Singh (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 25.04.2015:-

Sr. No.	Head	Amount
1.	Amount of compensation with 12 months income and 16 as multiplier (1,48,311x16)	Rs.23,73,000/-
2.	Compensation to the family members (children and family members other than wife) for loss of love and affection, deprivation of protection, social security etc.	Rs.1,00,000/-
3.	Compensation to the widow of the deceased for loss of love and affection, pains and sufferings, loss of consortium, deprivation of protection, social security etc.	Rs.50,000/-
4.	Cost incurred on account of funeral and ritual expenses	Rs.10,000/-
	Total compensation	Rs.25,33,000/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 9% per annum, from the date of the claim petition till the date of realization. Out of the total compensation amount, appellant/claimants No.1 and 2 being parents of the deceased were held entitled to Rs.3,00,000/- each, appellant/claimant No.3 being widow of the deceased was held entitled to Rs.7,33,000/- while appellants/claimants No.4 to 6 being children were held entitled to Rs.4,00,000/- each.

The facts in brief are that on 25.04.2015 when the deceased was returning from village Bhatian to village Khanpur on his scooter bearing registration No.PB48A-1365, at about 09:30 A.M. Maruti Car bearing registration No.PB-10AT-3312 (hereinafter referred to as

'offending vehicle') came in a rash and negligent manner and hit against the scooter of the deceased from behind. Resultantly, the deceased received multiple injuries and died at the spot. FIR under Sections 279, 304A and 427 IPC was registered at Police Station Khanna. It was claimed that the deceased aged 34 years was working as a turner with Indian Machine Tools, was also doing dairy farming and earning Rs.30,000/- per month. All the family members were totally dependent upon the deceased and due to his untimely death, they had been left with no source of income.

Learned counsel for the appellants/claimants, while impugning the award passed by learned Tribunal, submits that it was grossly inadequate and not in consonance with the ratio of law as laid down in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*; *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*. He submits that neither was any compensation awarded qua future prospects nor were they compensated for loss of spousal, parental and filial consortium. He also submits that under the other conventional heads like funeral expenses etc. inadequate compensation had been granted.

Learned counsel appearing for the insurance company submits that the amount awarded as compensation was adequate and just and did not warrant any interference. He submits that the interest @ 9% per annum on the compensation was on the higher side.

I have heard learned counsel and perused the relevant material on record.

This Court concurs with the submissions made by learned counsel for the claimants/appellants that the compensation awarded by the learned Tribunal is on the lower side and not in consonance with the settled law. The claimants are entitled to be awarded compensation qua future prospects to the extent of 40% as the deceased was 34 years old on the date of accident. Besides this, the claimants/appellants are widow, three children and parents of the deceased, hence they would be entitled to be compensated for loss of spousal, parental and filial consortium respectively. Further 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/- each for loss of 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 convention heads stands modified to Rs. 16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are parents, widow and three children of the deceased, are entitled to Rs.44,000/- each, for loss of filial consortium.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Head	Amount
1.	Annual Income	Rs.1,97,750/-
2.	Future prospects (40%)	Rs.1,97,750/- x 40% = Rs.79,100/-
3.	Total annual income	Rs.1,97,750/- + Rs.79,100/- = Rs.2,76,850/-
4.	Deductions towards personal expenses (1/4th)	Rs.2,76,850/- / 4 = Rs.69,213/-
5.	Loss of annual future earnings	Rs.2,76,850/- - Rs.69,213/- = Rs.2,07,637/-
6.	Multiplier	16
7.	Loss of future earnings	Rs.2,07,637/- x 16 = 33,22,192/-
8.	Loss of consortium	Rs.44,000/- x 6 = Rs.2,64,000/-
9.	Funeral expenses	Rs.16,500/-
10.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.36,19,192/- (rounded off to Rs.36,19,200/-)

The claimants are, therefore, held entitled to a total sum of Rs.36,19,200/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents No.1 to 3 jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

31.05.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No