

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

269

**FAO-1651-2018 (O&M)
Decided on : 05.07.2022**

Ram Sukh and others
Versus
Mandip Singh and others

. . . Appellants

. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ajay Pal Singh Rehan, Advocate
for the appellants.

Mr. D.P. Gupta, Advocate
for respondent No.3 – Insurance Co.

Service of respondents No.1 & 2 dispensed with.

MANJARI NEHRU KAUL, J. (ORAL)

The appellants-claimants who are husband, daughters and three minor sons respectively, of the deceased Janko Devi, are impugning the award dated 28.02.2017, passed by learned Motor Accidents Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, vide which their claim petition was allowed and they were awarded Rs.9,31,000/- @ 7.5% per annum from the date of filing of the petition till its actual realization. The amount awarded by the Tribunal in the sum of Rs.9,31,000/- was assessed and granted as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.4500/-
2.	Annual Income	12x4500=Rs.54,000/-
3.	Future Prospects	--
4.	Total Annual Income	Rs.54,000/-

5.	Deduction	--
6.	Annual Dependency	Rs.54,000/-
7.	Multiplier	14
8.	Total Dependency	Rs.54000x14=Rs.7,56,000/-
9.	Loss of Consortium	Rs.1,00,000/-
10.	Parental Consortium to children	--
11.	Love and Affection	Rs.50,000/-
12.	Funeral Expenses	Rs.25,000/-
13.	Loss of Estate	--
14	Total Compensation	Rs.9,31,000/-

2. The case of the appellants-claimants in brief is that on 31.05.2016, at about 11:00 a.m., the deceased Janko Devi along with her husband (appellant-claimant No.1), boarded the bus bearing registration No. PB-08-BV-9147 (hereinafter referred to as the 'offending bus') from Tada City for going to Village Chokha, Tehsil Dasuya, District Hoshiarpur. When the bus reached, the husband of the deceased was still in the process of alighting from the offending bus from its front door, while the deceased was alighting from the rear door of the offending bus, the driver i.e. respondent No.1, suddenly started the bus in a rash and negligent manner. Resultantly, the deceased fell down and both her legs came under the rear tyre of the offending bus. She suffered injuries on various parts of her body including fractures on her legs. Though her husband removed her to the Civil Hospital, Dasuya, however, the deceased succumbed to her injuries on way to the hospital. The matter was reported to the police and a case bearing FIR No. 26, dated 31.05.2015, under Section 304-A of IPC, was registered against respondent No.1. It was alleged that the deceased was 42 years old at the time of accident and besides doing household work, she

would also do labour work along with her husband and thus, was contributing more than Rs.15,000/- p.m. to the income of her family.

3. Learned counsel for the appellants/claimants submits that the compensation awarded vide the impugned award was not in consonance with the settled law, inasmuch as, monthly income of the deceased, who was also a homemaker besides being a labourer was assessed @ Rs. 4500/- p.m. only. Besides this, the Tribunal failed to award any compensation with respect to future prospects and even under conventional heads (e.g. loss of filial and spousal consortium), nothing had been awarded to the appellants/claimants, which was contrary to the settled law in *National Insurance Co. Vs. Pranay Sethi, 2017 SCC 270* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333*.

4. On the other hand, learned counsel appearing for respondent No.3 – Insurance Co., while opposing the submissions made by counsel opposite, submitted that the monthly income of the deceased, which had been assessed @ Rs.4500/- p.m., was just and did not warrant any interference. He submitted that Rs.1,00,000/- had been awarded for loss of consortium along with Rs.50,000/- on account of love and affection, which could not be said to be on the lower side. Learned counsel was, however, unable to controvert that as per the settled law, the appellants/claimants were indeed entitled to Rs.40,000/- each for loss of spousal as well as parental consortium.

5. I have heard learned counsel for the parties and perused the material on record.

6. This Court has no hesitation in concurring with the

submissions made by the learned counsel for the appellants/claimants that the monthly income assessed by the learned Tribunal in the sum of Rs.4500/- p.m., is on the lower side and indeed deserves to be enhanced. The deceased being a homemaker deserves to be treated as a 'skilled worker' owing to her multifarious contributions to her family as such. As per the notification issued by the State Government the minimum wages of a 'skilled worker' for the relevant period were fixed at Rs.8887/- p.m. Hence, the income of the deceased is reassessed and modified to Rs.8887/- p.m. The learned Tribunal has rightly applied the multiplier of 14 in the case in hand keeping in view the age of the deceased as 42 years old at the time of accident, however, the Tribunal has erred in not granting future prospects to the extent of 25% while granting compensation as per the settled law. The appellants-claimants are thus entitled to future prospects to the extent of 25% keeping in view the age of the deceased, who was 42 years old. Further, the appellants-claimants, who are husband, daughters and minors sons of the deceased would also be entitled to spousal and parental consortium, respectively. Thus, the compensation awarded by the Tribunal requires to be reassessed and modified accordingly in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court in *Pranay Sethi's case (supra)*.

7. The Hon'ble Supreme Court in *Pranay Sethi's case (supra)* has quantified the amount of compensation under conventional heads in the sum of Rs.15,000/- each, to be awarded for loss of estate, funeral expenses and Rs.40,000/- each for loss of consortium. Still further, it has 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 *qua* the compensation under conventional heads 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 appellants-claimants, who are the husband, four daughters and three minor sons of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium, respectively. Since, the Tribunal did not award any compensation *qua* future prospects.

8. Resultantly, the compensation is re-assessed as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.8887/-
2.	Annual Income	12x8887=Rs.1,06,644/-
3.	Future Prospects (25%)	Rs.1,06,644x25%=Rs.26,661/-
4.	Total Annual Income	Rs.1,33,305/-
5.	Deduction towards personal expenses (1/5 th)	Rs.26,661/-
6.	Annual Dependency	Rs.1,06,644/-
7.	Multiplier	14
8.	Total Dependency	Rs.106644 x 14=Rs.14,93,016/-
9.	Spousal consortium to Husband	Rs.44,000/-
10.	Parental consortium to seven children	Rs.3,08,000/- (i.e.Rs.44,000/- each)
11.	Funeral Expenses	Rs.16,500/-
12.	Loss of Estate	Rs.16,500/-
13.	Total Compensation	Rs.18,78,016/- (rounded off to Rs.18,78,000/-)

The appellants-claimants are therefore, held entitled to a total of Rs.18,78,000/- as compensation along with interest @ 8% per annum from the date of filing of petition till its actual realization to be

paid by respondent No.3 – Insurance Company as per award.

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

(MANJARI NEHRU KAUL)
JUDGE

July 05, 2022

J.Ram

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