

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

104

FAO-1502-1992

Date of decision: 29.09.2023

MUNESH & ORS**..Appellants****Versus****KAILASH SINGH & ORS****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sanjay Mittal, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

1. This is the claimants appeal for enhancement of the compensation awarded by the Motor Accidents Claim Tribunal (hereinafter referred to as the 'Tribunal'). On account of death of Sh. Sheotaj Singh, aged 24 years in an automobile accident, that took place on 26.02.1991, the Tribunal has awarded Rs.2,40,000/- as compensation. Sh. Sheotaj Singh was married and he left behind a young widow and an adolescent daughter, who was hardly 10 months old. He also left behind his mother and a handicapped brother. At the time of death, Sh. Sheotaj Singh was employed in the Border Security Force (BSF) drawing total salary of Rs.1578/- per month. The tribunal has assessed the dependency at the rate of Rs.1,000/- per month.

2. The learned counsel representing the appellant contends that if 1/3rd cut is applied for the expenses of deceased, the amount would come to Rs.1,052/-. He admits that the multiplier 20 applied by the Tribunal is not

correct and in fact it should be 18, however, he submits that the appellant is entitled to the increase in income due to future prospects and amount for loss of consortium to each of the dependent. He does not challenge the finding of the Tribunal that two brothers were not dependents.

3. There is substance in the arguments of the learned counsel representing the appellant. The Tribunal has erred in assessing the dependency at the rate of Rs.1,000/-, whereas, after applying 1/3rd cut, it would come to Rs.1,052/-.

4. The income is required to be increased by 40% on account of future prospects as per the judgment passed by the Five Judge Bench in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC Online SC 1270.**

5. Qua the loss of consortium, each claimant is entitled to Rs.40,000/- in view of the judgment passed by the Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333** which has been reiterated by another Division Bench in **New India Assurance Co. Ltd. vs. Somwati and others, Civil Appeal No.3093 No.2020, decided on 07.09.2020,** and by a three Judge Bench in **United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410,** in which it has been approved that each parent is entitled to Rs.40,000/- as consortium.

6. Thus, the widow, minor daughter and the mother are held entitled to Rs.40,000/- each.

7. Apart from that, the claimants shall be entitled to Rs.15,000/- towards the loss of estate and last rites i.e., funeral expenses each.

8. Accordingly, the revised compensation is calculated as under:-

Heads	Amount awarded by the Motor Accident Claims Tribunal (MACT)	Amount awarded by the High Court
Gross income	Rs.1,578/-	Rs.1,578/-
Future Prospects (50%)	NIL	Rs.1,578/- + Rs.789/- = Rs.2,367/-
Dependency 1/3 rd	Rs.1578/- – Rs.578/- = Rs.1,000/-	Rs.2,367/- – Rs.789/- = Rs.1,578/-
Multiplier	20	18
Annual dependency	Rs.1,000/- X 20 X 12 = Rs.2,40,000/-	Rs.1,578/- X 18 X 12 =Rs,3,40,848/-
Funeral Expense	NIL	Rs.15,000/-
Loss of estate	NIL	Rs.15,000/-
Filial consortium	NIL	Rs.40,000/- X 3 = Rs.1,20,000/-
Total amount awarded (Award)	Rs.2,40,000/-	Rs.4,90,848/-
Enhanced Compensation	Rs.4,90,848/- – Rs.2,40,000/- = Rs.2,50,848/-	

9. The enhanced compensation of Rs.2,50,848/- (Rs.4,90,848/- – Rs.2,40,000/-) shall be payable along with the interest at the rate of 7.5% from the date of filing of the claim petition till its realization.

10. With these observations, the appeal is disposed of.

11. All the pending miscellaneous applications, if any, are also disposed of.

September 29th, 2023
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(ANIL KSHETARPAL)
JUDGE

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