

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

**FAO No.576 of 1991
Date of Decision: 23.01.2023**

Smt. Sumitra Devi & Others

....Appellants

Versus

Ilam Singh & Others

....Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Ms. Sukhpreet Kaur, Advocate,
for the appellants.

Service of notice upon respondents No.1,
2 and 6 has been dispensed with.

Mr. Apoorv Garg, DAG, Haryana,
for respondents No.3 & 4.

Mr. Sumit Gupta, Advocate,
for respondent No.5-Insurance Company.

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MEENAKSHI I. MEHTA, J.(ORAL)

Feeling aggrieved and dis-satisfied with the Award passed by learned Motor Accident Claims Tribunal Jagadhri (for short 'the Tribunal') on 11.03.1991, whereby the appellants-claimants No.1 to 3 (here-in-after to be referred as 'the appellants') have been awarded compensation to the tune of Rs.72,000/- along-with interest @ 12% per annum from the date of filing of the claim petition till its realization, on account of the death of Ranbir Singh in a motor vehicular accident, they have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. It is worth-while to mention here that the file of the present appeal had been burnt and the same has been reconstructed but the Memo of Parties is not available in the paper-book or with the respective counsels for the parties. However, they (counsels) jointly submit that the array of the parties, as described in the impugned Award, may be considered as the Memo of Parties for all the intents and purposes in the instant appeal.

3. As per the brief factual-matrix culminating in the filing of this appeal, the appellants and claimant No.4 being the wife, two daughters and the son of the above-named deceased respectively, filed a petition against respondents No.1 to 5, impleading another son of the deceased as proforma -respondent No.6, for seeking compensation to the tune of Rs.5 (five) lac and averred therein that on the fateful day, i.e 13.11.1989, the deceased and claimant No.1, his wife, had gone to the Bus stand at Jagadhri for going to Ambala and while the deceased was boarding the Bus bearing Registration No.HNX-5979 (for short 'the offending vehicle'), respondent No.1 steered the same in such a rash and negligent manner that he (deceased) lost his grip on the handle of the window of the said vehicle, due to the resultant jerk and fell down and sustained multiple grievous injuries in this accident which proved fatal for him.

4. Respondents No.1 to 5 filed their separate written statements, contesting the claim as put-forth by the claimants in their petition, on various grounds. However, proforma-respondent No.6 had been proceeded against *ex-parte* before the Tribunal. Then, the parties were put to the trial by framing the issues on 07.08.1990. After appreciating and evaluating

the evidence as led by the parties on the record and hearing their learned counsel, the Tribunal passed the impugned Award, observing therein that respondent No.1 and the deceased were equally responsible for causing the said accident and granting compensation to the appellants accordingly, as already indicated in the opening para of this judgment.

5. I have heard learned counsel for the appellants-claimants No.1 to 3, learned State counsel for respondents No.3 & 4 and learned counsel for respondent No.5-Insurance Company in this appeal and have also gone through the file carefully.

6. Learned counsel for the appellants contends that the Tribunal has not granted any compensation to the appellants on the score of future prospects and it has also wrongly applied the multiplier of '6' to calculate the amount of compensation whereas the multiplier of '11' should have been applied for this purpose and moreover, no compensation has been granted on the counts of the loss of estate, funeral expenses and loss of consortium as well and in these circumstances, the appellants are entitled to the enhancement in the amount of compensation.

7. Per-contra, learned State counsel and learned counsel for respondent No.5-Insurance Company argue that the Tribunal has already awarded sufficient amount to the appellants as compensation and therefore, they have no occasion to ask for any further enhancement in the same.

8. Concededly, the deceased was 54 years old at the time of his death in the said accident and it also goes undisputed between the parties that his monthly salary was Rs.3,077/-. In view of the verdict rendered by

the Constitution Bench of Hon'ble Supreme Court in **National Insurance Co. Ltd. vs. Pranay Sethi & Ors. 2017(4) RCR (Civil) 1009**, an amount equivalent to 15% of the afore-said salary of the deceased, i.e Rs.460/-, has to be added therein towards the future prospects and on so adding, his monthly salary is arrived at $(3077+460)=Rs.3,537/-$. Since the Tribunal has awarded compensation to the appellants-claimants No.1 to 3 only while considering them to be the dependents of the deceased, therefore, 1/3rd share of his above-assessed monthly salary is to be deducted towards his personal expenditure, leaving the balance amount $(3537-1179)=Rs.2,358/-$ to be counted towards the monthly dependency of the appellants and their annual dependency would be $(Rs.2358 \times 12)=Rs.28,296/-$.

9. Considering the afore-mentioned age of the deceased and in view of the judgment handed down by the Apex Court in **Sarla Verma & others vs. Delhi Transport Corporation and Anr. 2009 (6) SCC 121**, the multiplier of '11' is to be applied to calculate the amount of compensation and when so calculated, the said amount comes out to be $(Rs.28296 \times 11)$ Rs.3,11,256/-. Besides this amount, appellant No.1-wife is awarded a sum of Rs.44,000/- for the loss of spousal consortium and each of the appellants No.2 & 3-daughters is also awarded the same amount, i.e Rs.44,000/- for the loss of parental consortium. Moreover, the appellants are granted an amount of Rs.16,500/- towards the funeral expenses and another sum of Rs.16,500/- for the loss of estate. However, keeping in view the factum of the contributory negligence on the part of the deceased to the extent of 50% in causing the said accident, the appellants shall be entitled to 50% share of

the above-mentioned compensation.

10. Accordingly, the net enhanced amount of compensation, as shall be payable to the appellants-claimants No.1 to 3, shall be as under:-

Head	Compensation already granted by Tribunal	Compensation awarded by this Court
Dependency	Rs.72,000/-	Rs.3,11,256/-
Loss of spousal consortium to appellant-claimant No.1	--	Rs.44,000/-
Loss of parental to appellants-claimants No. 2 & 3	--	Rs.88,000/- (@Rs.44,000 each)
Funeral expenses	--	Rs.16,500/-
Loss of estate	--	Rs.16,500/-
Total enhanced amount Rs.4,76,256/- Payable to the appellants as 50%=Rs.2,38,128/- Net enhanced amount (2,38,128-72,000)= Rs.1,66,128/-		

11. Resultantly, the appeal in hand is hereby allowed to the effect that appellants-claimants No.1 to 3 namely Sumitra Devi, Meena and Neera shall be entitled to the net enhanced compensation of **Rs.1,66,128/-** over and above the amount of Rs.72,000/- as already awarded to them by the Tribunal and the said enhanced amount shall carry interest at the rate of 7.5% from the date of filing of the claim petition till its realization and shall be payable to the appellants in the terms of the impugned Award.

23.01.2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No