

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

FAO No.2724 of 2001

Date of Decision: 16.02.2023

Harbans Kaur and another

.....Appellants

Versus

Krishan Lal and others

.....Respondents

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

Present:- Mr. Santosh Sharma, Advocate
for the appellants.

Mr. Ashwani Bakshi, Advocate
for respondent No.1.

Service of notice upon respondent No.2 already
dispensed with vide the order dated 29.11.2022

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

MEENAKSHI I. MEHTA, J.(Oral)

Feeling aggrieved and dis-satisfied with the Award dated 23.01.2001 passed by learned Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal'), whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been granted compensation to the tune of Rs.3,33,700/-, on account of the death of their son named Harmesh Singh in a motor vehicular accident and respondent No.3-Insurance Company has been directed to deposit the said amount within two months, while further

clarifying that if the same is not so deposited, then it would also pay the interest thereon @ 12% per annum from the date of the filing of the claim petition till its realization, the claimants have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. Shorn and short of unnecessary details, the facts leading to the filing of the present appeal, are that the claimants filed a petition against the respondents, i.e the respective driver, owner and insurer of the Truck bearing registration No.HP-24-3477 (for short 'the offending vehicle'), for claiming compensation and averred therein that on the ill-fated day, i.e 30.09.1998, the deceased, along-with Darshan Singh and Jarnail Singh, was going to his village on the Scooter having registration No. PB-11-4980, which was being driven by said Darshan Singh at a slow speed and on the correct side on the road. When they reached near Village Chalela, the offending vehicle came there from the opposite direction and it was being driven by respondent No.1 in a rash and negligent manner at a very high speed and without following the traffic rules and it collided with their Scooter. Resultantly, all the three afore-named scooterists sustained fatal injuries in this accident and succumbed to the same at the spot.

3. Respondents No.1 and 2 filed their joint written statement and respondent No.3-Insurance Company filed its separate written statement contesting the claim, as set-forth by the claimants in their petition, on various grounds. The Tribunal put the parties to the trial by framing the issues. After appreciating and evaluating the evidence as led by the parties on the record and hearing their learned counsel, the Tribunal has passed

the impugned Award, granting compensation to the claimants, as already discussed in the opening para of this judgment.

4. I have heard learned counsel for the appellants-claimants as well as learned counsel for respondent No.1 and learned counsel for respondent No.3-Insurance Company in this appeal and have also perused the file carefully.

5. Learned counsel for the claimants contends that the Tribunal has not awarded any compensation to the claimants on the scores of future prospects, loss of estate, loss of consortium and funeral expenses and has also wrongly applied the multiplier of '12' instead of '17', despite the fact that the deceased was 26 years old at the time of his death in the above-said accident and in these circumstances, the claimants are entitled to the enhancement of the amount of compensation, as awarded by the Tribunal.

6. Per contra, learned counsel for respondent No.3-Insurance Company argues that the Tribunal has already awarded sufficient amount to the claimants as compensation and therefore, they do not have any occasion to ask for any further enhancement in the same.

7. It goes undisputed between the parties that at the time of his death in the afore-mentioned accident, the deceased was 26 years old and was a bachelor and was working as a Constable with the Police Department and was drawing the salary of Rs.4663/- per month. Accordingly, in view of the verdict as rendered by the Constitution Bench of Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017(16) SCC 680**, an amount equivalent to 50% of his above-said

monthly salary is to be added therein towards the future prospects and on so adding, his monthly salary is arrived at $(4663+2331.50)=Rs.6994.50Ps$.

8. Since the deceased was a bachelor, therefore, 50% share of his afore-assessed monthly salary, i.e $Rs.3497.25Ps/-$, has to be deducted therefrom as his living and personal expenses, leaving the balance amount of $Rs.3497.25Ps/-$ (rounded off to $Rs.3497/-$) to be counted as the monthly dependency of the claimants and their annual dependency, thus calculated, would be $(Rs.3497 \times 12)=Rs.41,964/-$.

9. Keeping in view the above-mentioned age of the deceased and in the light of the observations, made by the Apex Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(6) SCC 121**, the multiplier of '17' would be applicable for calculating the amount of compensation and when so applied, this amount comes out to be $Rs.41964 \times 17=Rs.7,13,388/-$. Besides the afore-said amount, the claimants are awarded a sum of $Rs.16,500/-$ for the loss of estate and another sum of $Rs.16,500/-$ towards the funeral expenses and they are also entitled to the amount of $Rs.44,000/-$ each, for the loss of filial consortium.

10. Accordingly, the net enhanced amount of compensation, as shall be payable to the appellants-claimants, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Dependency	Rs.3,31,200/-	Rs.7,13,388/- (Rs.41964x17)	Rs.3,82,188
Funeral expenses	Rs.2500/-	Rs.16,500/-	Rs.14,000/-

Loss of estate	NIL	Rs.16,500/-	Rs.16500/-
Loss of filial consortium	Nil	Rs. 88,000/- (Rs. 44,000/- to each of both the claimants)	Rs.88,000/-
Net enhanced amount	Rs.3,33,700/-	Rs.8,34,388/-	Rs.5,00,688/-

11. As a sequel to the fore-going discussion, the appeal in hand is hereby allowed to the effect that the appellants-claimants are entitled to the net enhanced compensation amounting to **Rs.5,00,688/-**, over and above the amount of Rs.3,33,700/-, as already awarded to them by the Tribunal and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of the filing of the claim petition till its actual realization and shall be payable to the claimants in the terms of the impugned Award.

February 16, 2023
pooja

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>