

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

FAO No.2072 of 2009

Date of Decision: 10.01.2023

Saroj Bala and others

.....Appellants.

Versus

Gurdev Singh and another

.....Respondents.

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

Present:- Mr. Ram Darshan Yadav, Advocate
for the appellants.

Service of notice upon respondent No.1
dispensed with vide order dated 10.11.2022.

Mr. Pardeep Goyal, Advocate
for respondent No.2-insurance company.

MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved and dis-satisfied with the Award passed by learned Motor Accident Claims Tribunal, Rewari (for short 'the Tribunal'), on 19.08.2008, whereby the appellants-claimants No.1, 2 & 4 (here-in-after to be referred as 'the appellants') have been awarded compensation to tune of Rs.2,50,000/-, along-with interest @ 6% per annum from the date of filing of the claim petition till its realization, on account of the death of Raj Kumar in a motor vehicular accident, they (appellants) have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. As per the brief factual-matrix culminating in the filing of the present appeal, claimants No.1, 2 & 4-appellants, being the wife, minor son

and mother and claimant No.3-the father of the said deceased respectively, filed a petition against the respondents, the respective owner and insurer of Indica Car bearing registration No.CH-03K-9478 (for short 'the offending vehicle') for claiming a sum of Rs.25 lac as compensation, while averring that on the ill-fated day, i.e 07.11.2003, the deceased, who was employed as Constable in CISF and his friend named Had Singh were travelling in the offending vehicle which was being driven by one Roshan Lal and the said vehicle fell in a ditch and resultantly, all its afore-named occupants sustained multiple grievous injuries in this accident and ultimately, Raj Kumar succumbed to his injuries in the hospital.

3. Respondents No.1 & 2 filed their separate written statements, contesting the claim, as put-forth by the claimants in their petition, on several grounds. The claimants filed their replication and then, the issues were framed on 29.05.2008. After appreciating and evaluating the evidence led by the parties on the record and hearing their counsel, the Tribunal passed the impugned Award, granting compensation to the appellants only, as already discussed in the opening para of this judgment.

4. It is worth-while to mention here that the service of notice upon respondent No.1 had been dispensed with by this Court vide the order dated 10.11.2022.

5. I have heard learned counsel for the appellants as well as learned counsel for respondent No.2-insurance company in this appeal and have also perused the record carefully.

6. Learned counsel for the appellants contends that the deceased

was getting the monthly salary @ Rs.6,986/- but the Tribunal has awarded a meagre amount of Rs.1,50,000/- only, in lump-sum, to the appellants towards the loss of dependency, without applying the appropriate multiplier to the amount of annual dependency which was to be derived after making necessary deduction from the salary of the deceased towards his personal expenses and it has granted a sum of Rs.50,000/- for the medical expenses and another amount of Rs.50,000/- for loss of consortium but has not given any compensation towards the funeral expenses and loss of estate as well as on the count of future prospects and in these circumstances, the appellants are entitled to the enhancement of the amount of compensation.

7. Per contra, learned counsel for respondent No.2-insurance company argues that the Tribunal has already awarded sufficient amount to the appellants as compensation and hence, they have no occasion to ask for any further enhancement in the same.

8. Concededly, the deceased was employed as Constable in the CISF. PW3 Vijay Kumar, who had brought his (deceased's) service record, has categorically deposed that as per the said record, the monthly salary of the deceased was Rs.6,986/- and his date of birth was 02.02.1974. In view of these depositions, it becomes explicit that the deceased was about 29 years and 09 months old at the time of his death in the said accident.

9. Keeping in view the observations as made by the Constitution Bench of the Apex Court in **National Insurance Company Limited Versus Pranay Sethi and others 2017(16) SCC 680**, an amount equivalent to 50% of the above-mentioned salary of the deceased is to be added therein on the

score of future prospects and accordingly, his monthly salary is assessed at (Rs.6,986+3493)=Rs.10,479/-.

10. Since the Tribunal has granted compensation to only three appellants-claimants while considering them to be the dependents of the deceased, 1/3rd share of the afore-assessed salary of the deceased, i.e Rs.3,493/-, is to be deducted towards his personal expenses, leaving the remaining amount of Rs.6,986/- for being counted towards the dependency of the appellants and their annual dependency, thus calculated, would be (Rs.6,986x12)=Rs.83,832/-.

11. In view of the age of the deceased at the relevant time, the multiplier of '17' would be applicable to calculate the amount of compensation, in the light of the observations made by Hon'ble the Supreme Court in Smt. Sarla Verma and Others vs. Delhi Transport Corporation and Another 2009(6) SCC 121 and when so applied, the amount of compensation comes out to be (83,832x17)=Rs.14,25,144/-.

12. Besides the afore-said amount, the appellants are awarded a sum of Rs.16,500/- for the loss of estate and another amount of Rs.16,500/- towards the funeral expenses and each of the appellants will also be entitled to an amount of Rs.44,000/- towards the loss of spousal, parental and filial consortium respectively.

13. Accordingly, the net enhanced amount of compensation, as shall be payable to the appellants-claimants No.1, 2 and 4, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court

Dependency	Rs.1,50,000/- (in lump-sum)	Rs.14,25,144/- (Rs.6986x12x17) including future prospects @50%
Loss of Estate	NIL	Rs.16,500/-
Medical Expenses	Rs.50,000/-	NIL
Funeral Expenses	NIL	Rs.16,500/-
Loss of Consortium to 03 appellants	Rs.50,000/-	Rs.1,32,000/- @Rs.44,000/- to each appellant)
Net Enhanced amount Rs.15,90,144-Rs.2,50,000/- =13,40,144/-		

14. As a sequel to the foregoing discussion, the appeal in hand is allowed to the effect that the appellants-claimants No.1, 2 and 4 are entitled to the net enhanced compensation amounting to **Rs.13,40,144/-**, over and above the amount of Rs.2,50,000/- 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 realization and shall be payable to the appellants in terms of the impugned Award.

(MEENAKSHI I. MEHTA)
JUDGE

January 10, 2023
Yag Dutt

Whether speaking/reasoned:	Yes
Whether Reportable:	Yes