

224 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CM-12986-CII-2016 in/and  
FAO-3842-2016  
Date of Decision :01.05.2023

Mohinder Kaur and others ...Appellants

Versus

Devi Dyal and others ....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Rajeev Dev Sharma, Advocate for the appellant.  
Mr. Rajbir Singh, Advocate for respondent No.3.

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B.S. Walia, J. (Oral)

**CM-12986-CII-2016**

For the reasons as are mentioned in the application, the same is allowed. Delay of 326 days in late filing of the appeal is condoned.

**FAO-3842-2016**

1. Prayer in the appeal is for modification of award dated 03.03.2015, passed by the learned Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as "the Tribunal") and for enhancement of compensation of Rs.6,86,500/- awarded to the appellants i.e. widow and four children of deceased Gurbachan Singh.

2. The Tribunal by taking the age of the deceased as 50 years, and by treating him as a labourer assessed his income as Rs.4,500/- per month. Thereafter, by applying multiplier of '13' and by making deduction @ 1/4<sup>th</sup> of the established income of the deceased towards personal expenses and further by awarding a sum of Rs.1,00,000/- on account of loss of love and affection and Rs.50,000/- towards loss of

consortium and Rs.10,000/- towards funeral expenses, awarded total compensation of Rs.6,86,500/- along with interest @ 9% per annum.

3. Learned counsel contends that the award is liable to be modified and compensation enhanced by taking 25% of the established income of the deceased towards future prospects besides by awarding Rs.15,000/- on account of loss of estate and like amount on account of funeral expenses as against Rs.10,000/- awarded by the Tribunal.

4. Learned counsel for respondent No.3/Insurance Company does not dispute the aforementioned claim of the appellants but states that Rs.1 lakh awarded on account of love and affection is not admissible in view of the decision of Hon'ble the Supreme Court in **Satinder Kaur @ Satwinder Kaur vs. United India Insurance Co. Ltd. Law Finder Doc Id # 1729112**. Learned counsel further contends that Rs.50,000/- awarded on account of loss of consortium is liable to be scaled down to Rs.40,000/- in lump sum in view of the decision of Hon'ble the Supreme Court in **Shri Ram General Insurance Co. Limited** versus **Bhagat Singh Rawat and others**', Civil Appeal Nos.2410-2412/2023 [@ SLP [c] Nos.11669-11671/2020] followed by a Co-ordinate Bench of this court in FAO No.3590 of 2015 in case titled as '**Baljit Kaur and others** Vs. **Jai Singh and others**', restricting compensation on account of consortium to Rs.40,000/-.

5. I have heard the submissions of learned counsel.

6. Admittedly, the deceased was 50 years of age. Income of the deceased @ Rs.4,500/- per month is not disputed by either of the parties.

Accordingly, in view of the deceased being 50 years of age, therefore, in

terms of paragraph 61 (iv) of the decision of Hon’ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, 25% of the established income of the deceased is to be taken into account for working out future prospects. Similarly, in view of the decision of Hon’ble the Supreme Court in Pranay Sethi’s case (supra) and recent judgment in Shri Ram General Insurance Co. Limited’s case (supra), loss of consortium awarded by the Tribunal @ Rs.50,000/- is restricted to Rs.40,000/- in entirety. Similarly, in view of the decision of Hon’ble the Supreme Court in Satinder Kaur @ Satwinder Kaur’s case (supra), no amount is admissible on account of love and affection. Further as per the decision of Hon’ble the Supreme Court in Pranay Sethi’s case (supra), the appellants are held entitled to Rs.15,000/- on account of loss of estate and like amount on account of funeral expenses as against Rs.10,000/- awarded by the Tribunal.

7. Accordingly, in the light of the position noted above, details of compensation awarded by the Tribunal and the compensation assessed by this Court is as under :-

| Sr. No. | Head                   | Amount assessed by Tribunal in Rupees       | Amount assessed by this Court in Rupees                 |
|---------|------------------------|---------------------------------------------|---------------------------------------------------------|
| 1.      | Income of the deceased | Rs.4500/- per month                         | Rs.4500/-                                               |
| 2.      | Future prospects       | Nil                                         | 25% of Rs.4500/- = 1125 (Total 4500 + 1125 = Rs.5625/-) |
| 3.      | Deduction              | 1/4 <sup>th</sup> of Rs. 4500/- = Rs.1125/- | 1/4 <sup>th</sup> of Rs.5625/- = Rs.1406.25/-           |
| 4.      | Dependency             | 4500-1125= 3375                             | 5625-1406.25= 4218.75/-                                 |
| 5.      | Multiplier applied     | 13                                          | 13                                                      |
| 6.      | Compensation awarded   | 3375x12x13= 5,26,500/-                      | 4218.75x12x13 = 6,58,125/-                              |

|                     |                    |               |                          |
|---------------------|--------------------|---------------|--------------------------|
| FAO-3842-2016 (O&M) |                    | [4]           | <b>2023:PHHC:063048</b>  |
| 7.                  | Love and affection | Rs.1,00,000/- | Nil                      |
| 8.                  | Loss of Consortium | Rs.50,000/-   | Rs.40,000/- in entirety. |
| 9.                  | Funeral Expenses   | Rs.10,000/-   | Rs.15,000/-              |
| 10.                 | Loss of Estate     | Nil           | Rs.15,000/-              |
| 11.                 | Interest           | 9% per annum  | 9% per annum             |
| Total               |                    | Rs.6,86,500/- | Rs.7,28,125/-            |

8. Accordingly, in the light of the position noted above, the appeal is allowed, award modified and as against compensation of Rs.6,86,500/- awarded by the learned Tribunal, the appellants/claimants are held entitled to award of compensation of Rs.7,28,125/-along with interest at the rate of 9% per annum with effect from the date of the claim petition till date of payment, less payment if any already made. Payment be made to the appellants/claimants in the proportion as ordered by the learned Tribunal within four weeks from today.

**(B.S. Walia)**  
**Judge**

01.05.2023  
rajesh

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