

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-1274-2017(O&M)

Date of decision: January 11, 2023

Baljinder Singh and others

....Appellants

versus

Manjit Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:-** Mr. Jaideep Verma, Advocate for the appellants.

Mr. Rajesh K. Sharma, Advocate for respondents No.1 and 2.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

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**ARUN MONGA, J. (ORAL)**

Aggrieved with award dated 15.10.2016 rendered by learned Motor Accidents Claims Tribunal, Rupnagar (for brevity, Tribunal), appellants/claimants are before this Court by way of an appeal seeking enhancement of compensation.

2. Facts are not in dispute. Succinct facts as noted by the Tribunal are as below:

*"2. As per the version of claimants, on 25.10.2015, Dalbir Kaur along with her daughter Sandeep Kaur petitioner no.3 was going to Kurali side from village Mullanpur Sodhian on Honda Activa No.PB-12-X-5971 which was being driven by Sandeep Kaur on her side, with a low speed and taking all the precautionary measures. The said Daljit (sic) Kaur was pillion rider. When they reached near Feed Factory, near animal fair on Mullanpur Sodhian to Kurali road at about 3:00 PM, an i 20 Car no. PB-65-P-3788 came from back side, driven in rash and negligent manner and without blowing any horn and the driver of the car turned the car on the wrong side and struck fast with the rear side of the Activa. Due to the impact of the accident, Smt. Dalbir Kaur struck with the wind screen of the car and fallen in the ditch whereas Sandeep Kaur had fallen on pucca road. They*

*both received multiple grievous head injuries, compound fractures on their body in this accident. Daljit Kaur succumbed to the injuries at the spot after some time. Sandeep Kaur was taken to PGI, Chandigarh and remained admitted there for one week and is still under treatment. FIR no. 167 dated 25.10.2015 was registered in respect of the said accident. The claimants have further reiterated that the accident took place due to the high speed and rash and negligent driving of i20 Car no.PB-65-P-3788 by respondent no.1. The said Daljit Kaur was 45 years of age and was doing the work of dairy farming. She had kept 10-12 Buffaloes and was earning Rs. 35,000/- per month. Due to her untimely death, claimants have suffered great mental shock besides heavy economical loss. After her death, there is nobody in the house to look after the dairy farming business. Claimant no.1 remains ill and is not in a position to do any work. After the death of Dalbir Kaur, the business of dairy farming has been ruined and claimant no.1 has sold the buffaloes. Now the claimants have no source of income. Claimant no.2 is studying in B A fist year and all the expenses of his study were being born by his mother but after her death, he has to leave the studies. Claimants no. 3 and4 are married daughters of Dalbir Kaur deceased, who was rendering economically help to her daughters. Deceased was the only bread winner of the family and all the claimants were dependent upon her income. They have deprived of love, affection, guidance and society of Smt. Dalbir Kaur. They have spent Rs. 1 lac on the transportation and last rites and ceremonies of the deceased i.e., their predecessor Dalit Kaur.”*

3. Upon notice, respondents No.1&2 filed joint written statement raising preliminary objections *inter alia* that claim petition was not maintainable, same was based on false facts. It was stated that alleged accident did not take place, the claimants have no *locus standi* to file claim petition and same was bad for non-joinder of necessary parties. On merits, material averments of the petition were denied and it was averred that vehicle in question was insured with Tata AIG General Insurance Company.

4. Respondent No.3/Insurer filed written statement, raised usual and legal objections and admitted that vehicle was insured in the name of Jaspal Singh and the same was subject to terms and conditions of the policy and provisions of Motor Vehicles Act.

5. Learned Tribunal framed the following issues:

- “1. *Whether Dalbir Kaur wife of Baljinder Singh died in a motor vehicular accident that took place on 25.10.2015 at 3:00 PM near Feed Factory, near animal fair on Mullanpur to Kurali road due to rash and negligent driving of car bearing registration no. PB-65-XP-3788 driven by respondent no. 1? OPP*
2. *If issue no.1 is proved in affirmative, whether the claimants are entitled to receive the compensation amount on account of death of Dalbir Kaur, if so to what extent and from whom? OPP*
3. *Whether the claim petition is bad for non-joinder of necessary parties? OPR(1&2)*
4. *Whether respondent no.1 was not holding a valid and effective driving license at the time of alleged accident? If so its effect? OPR(3)*
5. *Whether the claim petition is not maintainable? OPR*
6. *Relief.”*

6. On appraisal of record/ evidence, learned Tribunal decided issues No.1& 2 in favour of claimants. Issue No.3, 4 & 5 were decided against the respondents. Consequently, the claim petition was partly allowed and claimants were awarded compensation in equal shares to the tune of Rs.12,44,880/- for loss of dependency, Rs.1,00,000/- for loss of love and affection and Rs.50,000/- for transport and funeral, total Rs.13,94,880/- with interest @ 9% from the date of claim petition.

7. Learned counsel for the appellant/claimants contends that lesser amount on account of love and affection has been awarded. The amount paid on account of funeral expenses and towards loss of estate also needs to be enhanced. This is contested by the learned counsel for the respondents.

8. I have heard learned counsel for the parties and perused the record.

9. Having heard the rival contentions and on perusal of impugned award, I find that the submissions made before the Tribunal were duly

considered and repelled by recording sound and sufficient reasons consistent with record and the applicable law. I am inclined to agree with the same.

10. To my mind, award under challenge has been rendered after due and correct appreciation of record including the evidence adduced by the parties.

11. In the premise, applying the principles in the case of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, reported in **2009 (3) The Punjab Law Reporter 22**, **National Insurance Co. Ltd. v. Pranay Sethi**, reported in **(2017) 16 SCC 680** read with **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others**, reported in **2019 (3) SCC (Cri) 153**, I am of the opinion that by maintaining the award in other respects, the amount of compensation under the conventional heads needs to be recalculated as below:

|                                 |                                          |
|---------------------------------|------------------------------------------|
| Deceased                        | Daljit Kaur                              |
| Date of accident/death          | 25.10.2015                               |
| Age                             | 45 years                                 |
| Marital Status                  | Married                                  |
| Claimants                       | Husband, son and daughters               |
| Notional Income of the deceased | Rs.7,600/- per month                     |
| Future prospects                | 30% (Rs.7,600+2,280)<br>= Rs.9,880/-     |
| Deduction in dependency         | 1/4 <sup>th</sup><br>(9880-2470)=Rs.7410 |
| Annual dependency               | Rs.88920/- (7410x 12)                    |
| Multiplier                      | 14                                       |
| Funeral exp. and loss of estate | Rs.33,000/- (16,500+16,500)              |

|                                            |                                              |
|--------------------------------------------|----------------------------------------------|
| Consortium                                 | Rs.1,76,000/- (Rs.44,000 x 4)                |
| Total                                      | Rs.14,53,880/-<br>(88920x14+33,000+1,76,000) |
| Compensation awarded by the Tribunal       | Rs.13,94,880/-                               |
| Enhanced amount of compensation to be paid | Rs.59,000/-<br>(Rs.14,53,880-Rs.13,94,880/-) |

12. Accordingly, the impugned award is modified in terms of the above computations. Revised compensation shall be payable to the claimants along with interest as already awarded by the learned Tribunal, from the date of filing of the claim petition till the actual date of payment. The same shall be payable to the claimants within a period of 2 months of their approaching the insurance company along with web print of the instant order, failing which additional penal interest of 3% p.a. shall be paid from the date of filing of the claim petition. Revised compensation amount be disbursed to the claimants in terms of the apportionment as already determined by the Tribunal.

13. Disposed of in above terms.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)  
JUDGE

January 11, 2023  
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No