



**IOIN-FAO-945-1990 in/and
FAO-945-1990**

-1-

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

130

**IOIN-FAO-945-1990 in/and
FAO-945-1990
Date of decision:15.05.2024**

ROOP LAL & ANR.

...APPELLANTS

VS.

HARPAL SINGH & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.S. Rana, Advocate
for the appellants.

Respondents No.1, 3 and 4 are reported to have expired.

Mr. Sanjiv Pabbi, Advocate
for respondent No.5 – Insurance Company.

SUVIR SEHGAL J.

IOIN-FAO-945-1990

1. IOIN is disposed of and main case is ordered to be taken on Board.

FAO-945-1990

2. By way of present appeal filed under Section 173 of the Motor Vehicles Act, 1988, legal heirs of Jawala have approached this Court for enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short “the Tribunal”), Ropar vide judgment dated 28.07.1990.



**IOIN-FAO-945-1990 in/and
FAO-945-1990**

-2-

3. Brief facts may be noticed.

4. On 13.08.1988, Jawala alongwith Prem and Dalip Kumar, were travelling from Naina Devi to Ludhiana on the roof top of a bus, which was being driven rashly by respondent No.1. The bus took a sharp turn at high speed and a boom barrier hit Jawala and his companions. Jawala was taken to PGI, where he succumbed to injuries on 16.08.1988. FIR was lodged by Dalip Kumar on the next day. Claim petition was filed by appellants, who are his parents, which has been accepted by the Tribunal and they have been granted compensation of Rs.60,000/- alongwith interest @ 12% per annum against respondents No.1 to 4, however, Insurance Company – respondent No.5 has been absolved of the liability.

5. I have heard counsel for the appellant and examined the available record with his able assistance.

6. On the basis of the evidence adduced before it, Tribunal came to the conclusion that respondent No.1 was negligent in driving the bus and the accident had taken place due to his rash driving. As the deceased was not a passenger sitting in the bus, the Insurance Company was not found to be liable to pay compensation.

7. Compensation was assessed by assuming that the deceased, who was working as a labourer must be earning Rs.20/- per day, despite the fact that Prem (PW-2) had deposed that the deceased was earning Rs.30-35/- per day. Tribunal erred in discarding his evidence without any basis. This Court is, therefore, of the view that the daily income of

the deceased has to be taken as Rs.30/- and his monthly income would work out to be Rs.900/-. The Tribunal has applied a multiplier of 16, however, in view of the judgment of the Supreme Court in National Insurance Company Limited Versus Pranay Sethi and others (2017) 16 SCC 680, the multiplier deserves to be enhanced to 18 as the deceased was 21 years of age. He was a bachelor at the time of his death. Therefore, this Court does not find any error in the dependency of 50% determined by the Tribunal, which is in tune with the above-noted judgment of the Supreme Court. An addition of 40% deserves to be made towards future prospects. The appellants are also entitled to consortium of Rs.44,000/- each, besides funeral expenses and loss of estate.

8. The total compensation to which the claimants are entitled is calculated as under:-

Head	Compensation awarded
(i) Income	Rs.900/-
(ii) Future Prospects	Rs.360/- (i.e. 40% of the income)
(iii) Deduction towards personal expenditure	Rs.630/- (i.e. 50% of (900+360))
(iv) Total Income	Rs.630/-
(v) Multiplier	18
(vi) Annual dependency:	Rs.1,36,080/- (Rs.630 X 12 X 18)
(vii) Funeral expenses:	Rs.18,000/-
(viii) Loss of estate:	Rs.18,000/-
(ix) Loss of Consortium	Rs.88,000/- (Rs.44,000/- payable to each dependents)
Total compensation awarded	Rs.2,60,080/-
Less MACT Award	Rs.60,000/-
Enhancement	Rs.2,00,080/-

IOIN-FAO-945-1990 in/and
FAO-945-1990

-4-

9. Enhanced compensation will earn interest @ 6% per annum
from the date of this order till payment. Award passed by the Tribunal is
modified accordingly.
10. Appeal is disposed of.
11. As the main appeal has been decided, pending miscellaneous
application(s), if any, shall stand disposed of.

15.05.2024
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No