



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

201

FAO-1695-2001 (O&M)
Decided on : 01.10.2024

Dulari Devi and others

... Appellant(s)

Versus

Hazara Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Jagdish Manchanda, Advocate and
Mr. Devyansh, Advocate, for the appellant(s).

Mr. Sandeep Kumar, Advocate for
Mr. G.C. Shahpuri, Advocate, for respondent No.2.

Mr. Sahej Mahajan, Advocate for
Mr. R.K. Bashamboo, Advocate
for the respondent – Insurance Company.

Mr. Amit Jaiswal, Advocate
for respondent No.4.

SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as 'claimant') in MACT Case No. 43 of 29.05.1999, for modification of award dated 05.02.2001, passed by Ld. Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of deceased – 'Jagdish Singh'.

2. Briefly stated facts of the case are that on 07.12.1998, Constable 'Jagdish Singh' (deceased) was on duty and was returning from Pehowa to Police Station Ismailabad on motorcycle bearing registration



no.HR-09-5767.At about 8:00/9:00PM, when he reached in the area of village Malikpur, the offending truck bearing registration no.HR04/1268, which was out of order, was standing in the middle of the road facing Ambala. The said truck was loaded with sheep and did not have any rear light, indicator or any kind of signal. The motor cycle of the deceased collided with the said truck. As a result of which he fell down and sustained multiple grievous injuries and ultimately succumbed to them. Resultantly, FIR NO .219 dated 08.12.1998 under section 201/304-A IPC was also registered.

3. Appellants - Dulari Devi (widow of the deceased), Birma Devi (mother of the deceased) and four minor children of the deceased namely; Suman, Pooja, Jyoti, and Ajmer, filed a claim petition under Section 166/163-A of the motor vehicle Act, 1988, for seeking compensation on account of death of 'Jagdish Singh' in the motor vehicular accident. However, after going through the record, appreciating the evidences, examining the witnesses and hearing the arguments of both the sides, Ld. Tribunal deducted 1/3rd on account of his personal expenses, assessed Rs.3,600/- per month on account of loss of dependency, applied the multiplier of '15', and accordingly, awarded total compensation to the claimant to the tune of Rs.6,58,000 /- payable by respondents severally and jointly with interest @12% per annum from the date of filing of the petition till its realization.

4. Applicants/claimants have filed the present appeal seeking enhancement of compensation, over and above the amount awarded by Ld. Tribunal.



5. While addressing arguments, Counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased – Jagdish Singh, as he was working as constable in Haryana Police and was drawing Rs.5,856/- as per salary certificate (Ex P5) ; failed to enhance the income on account of future prospects; erred in applying multiplier ; has deducted personal expenses on the higher side and not granted compensation on account of funeral expenses, loss of consortium and loss of estate etc.

6. On the other hand, Ld. Counsel for Respondent No.3 – Insurance Company, submits that the Ld. Tribunal has rightly determined the monthly salary of the deceased and there is no need to interfere in the amount of compensation awarded by the Ld. Tribunal. Thus, the present appeal was liable to be dismissed.

7. I have gone through the impugned award and the calculations mentioned therein, apart from hearing learned counsel for the parties. There is no doubt that in a situation where the different Courts at different times were at diversions in their opinion and in the absence of any clarification by the law makers despite recommendations by the Hon'ble Apex Court, all the major issues were referred to the larger Bench, and accordingly, Constitution Bench was constituted in *National Insurance Company Limited v. Pranay Sethi and Others*, 2017 (4) RCR (Civil) 1009 : Law finder Doc ID #918174. Thus, for the purpose of reaching out to appropriate amount of compensation for adjudging the rights of the claimants, guidelines laid down in the judgment of the Constitution Bench in *Pranay Sethi's case (supra)*, would help the Courts.



8. It is not in dispute that as per Salary Certificate deceased – Jagdish Singh was working as Constable and drawing Salary of Rs.5,856/- per month. From the evidence on record, it stands established that the deceased was aged about 40 years and as per *Pranay Sethi's case (supra)*, addition of 30%, on the count of 'future prospects' has to be made and total amount of earnings comes to be Rs.5,856/- +Rs.1,756.8 (30% of Rs.5,856/-)=Rs.7,612.8 /- per month.

9. Out of the same, keeping in view the number of dependents i.e. widow, mother and four children 1/4th is to be deducted on account of 'personal expenses', which is to the extent of Rs.1903.2/- and the residue amount works out to be Rs.5709.6 /- per month and annual comes to be Rs.68,515.2 /-. Considering the age of the deceased as per *Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121*, the appropriate multiplier to be applied in the present case is '15' and after, so applying this multiplier, the loss of dependency comes to be Rs. 68,515.2/-X 15=Rs.10,27,728/-.

10. Rest of the parameters are assessed and calculated in accordance with the judgment of this Court titled as *Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006, D/d. 07.07.2023) : Law Finder Doc Id # 2270482*, which is in consonance with the settled proposition of law laid down by the Apex Court in *Pranay Sethi's case (supra)*, and *Smt. Sarla Verma's case (supra)* and *Smt. Anjali and others v. Lokendra Rathod and Others, 2023 (1) R.C.R. (Civil) 229 : Law Finder Doc Id #2081014*.

11. Claimants are entitled for Rs.25,000/- as compensation under the head of funeral expenses and Rs.20,000/- towards loss of estate. Loss of



consortium is to be awarded to the tune of Rs.48,400/- each, to the all of the claimants in the instant appeal.

12. For the sake of convenience, amount of compensation assessed and calculated by this Court is produced below in a tabular form:-

Sr. No.	Heads	Compensation awarded by the High Court
1.	Income	Rs.5,856/-
2.	Future Prospects	30%
3.	Deduction towards Personal Expenses	1/4 th
4.	Total Annual Income	Rs.68,515.2 /-
5.	Multiplier	15
6.	Loss of Dependency	Rs.10,27,728/-.
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of Estate	Rs.20,000/-
9.	Loss of Spousal Consortium	Rs. 48,400 /-
10.	Loss of Parental Consortium	Rs.1,93,600/- (Rs. 48,400 X 4)
11.	Loss of filial Consortium	Rs. 48,400/-
12.	Total Compensation to be Paid	Rs.13,63,128/-

Thus, the claimants are entitled for a total compensation amount of Rs.13,63,000/-(rounded-off) as against Rs.6,58,000/-.

13. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 12% per annum from the date of filing of the claim petition till realization shall be maintained. However, learned counsel appearing on behalf of respondent No.3 – Insurance Co., submits that the rate of interest should not be more than 6% per annum.

14. Thus, keeping in view the aims and objects of the beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (petitioners/claimants) is enhanced to **Rs.13,63,000/- (Rupees Thirteen Lakhs and Sixty Three Thousand only).**

The awarded compensation shall be paid to the appellants



(petitioners/claimants) within a period of three months from the date of this order, along with interest at **7.5%** per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants), with the same terms, which have been mentioned by Ld. Tribunal.

15. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award would be adjusted.

Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

Misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

October 01, 2024

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*