

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

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FAO-148-2024 (O&M)

Date of Decision: January 10, 2024

United India Insurance Co. Ltd.

.....Appellant(s)

Vs.

Ram Piari and others

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Munish Goel, Advocate
for the appellant(s).

SUDEEPTI SHARMA J. (ORAL)**CM-386-CII-2024**

The present application has been filed for condonation of delay of 03 days in filing the present appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and delay of 03 days in filing the present appeal, is condoned.

FAO-148-2024 (O&M)

The challenge in the present appeal is to award dated 08.08.2023 rendered by Motor Accident Claims Tribunal, Patiala (hereinafter referred as 'Tribunal', whereby respondents/claimants were awarded compensation to the tune of Rs.12,30,500/- alongwith interest @ 7.5 % per annum from the date of filing the claim petition till its realization, on account of death of Harpal Singh, in a motor vehicular accident, which took place on 02.09.2018.

2. Brief facts of the case are that on 02.09.2018 Harpal Singh (since deceased) along with Deepa Singh @ Thekedar, Ishar Mavi, Seera, Sarpanch

Dhainthal, Cheera and Bhura were hired by Amrik Singh and Parmod Kumar for loading and unloading of Bhung (Rice Bran) on contract basis. On that day, they were returning from Narata Rice Mills, Asarpur Chupki, Samana to City Samana after loading Bhung (Rice Bran) in their truck bearing registration No. PB-11BR-6413 (hereinafter referred as offending vehicle, for convenience). Amrik Singh was driving the offending vehicle rashly and negligently. At about 5.30 pm when they reached near Dera Karnail Singh on Asarpur Chupki-Samana road, Amrik Singh could not control the offending vehicle and struck the same into electric wires of 11000 KW and electric current passed through the offending vehicle, due to which, all the occupants of offending vehicle got down from the offending vehicle, whereas Harpal Singh received electric shock while getting down from the offending vehicle. Many persons gathered at the spot and electric wire was separated from the offending vehicle with the help of some wood. Harpal Singh (deceased) died on the spot. He was taken to Civil Hospital, Samana where he was declared brought dead.

3. The claim petition was filed by the respondents/claimants under Section 166 of the Motor Vehicles Act, for claiming compensation to the tune of Rs.50 lacs on account of death of Harpal Singh in an accident, which took place on 02.09.2018.

4. Upon notice, respondents appeared and contested the case by filing written statement and denying the case of the claimants by stating that no accident, as alleged, took place and false DDR No.22 dated 03.09.2018 was lodged against the appellant-Insurance Company.

5. From the pleadings of the parties, following issues were framed on 09.08.2019:-

1. *Whether Harpal Singh died in the motor vehicular accident occurring due to rash and negligent driving vehicle No.PB-11BR-6413 by respondent No.1?OPP*
2. *Whether the claimants are entitled to compensation, if so to what extent and from whom? OPP*
3. *Whether respondent no.1 was not holding a legal and valid driving licence at the time of the accident? If so, its effect? OPR-3.*
4. *Whether there is breach of any condition of the Insurance Policy by respondent no.2? OPR-3*
5. *Relief.*
6. After hearing the parties, claim petition of the respondents herein was allowed and they were awarded compensation to the tune of Rs.12,30,500/- alongwith interest @ 7.5 % per annum from the date of filing the claim petition till its realization. Hence, this appeal.
7. Learned counsel for the appellant-Insurance company *inter alia* contends that truck involved in the accident struck against the electric transformer and due to electro-ducting, the deceased succumbed to injuries, therefore, it would not amount to an accident. He further contends that the amount awarded by learned Tribunal is on the higher side. Further, he contends that the driver of the truck could not control the truck which struck against the electric wires of 11000 KW and electric current passed through the offending vehicle, due to which all the occupants of the truck got down and Harpal Singh (deceased) received electric shock while getting down from the truck and died on the spot and this would also not amount to an accident.
8. I have heard learned counsel for the parties and perused the whole record of this case and conclude as under:-
9. On the examination of eye witness-Ishar Singh, who was examined

deposed that on 02.09.2018 he along with Harpal Singh (deceased), Deepa Singh @ Thekedar, Rajinder Singh @ Cheera, Sarpanch Dhainthal, Seera and Harjinder Singh @ Bhura were hired by Amrik Singh and Parmond Kumar (Respondents No.1 and 2 before the Tribunal) for loading and unloading of Bhung (Rice Bran) on contract basis. On that day, they were returning from Narata Rice Mills, Asarpur Chupki, Samana to City Samana after loading Bhung (Rice Bran) in the offending vehicle. Amrik Singh was driving the offending vehicle rashly and negligently. At about 5.30 p.m. when they reached near Dera Karnail Singh on Asarpur Chupki-Samana road, Amrik Singh could not control the offending vehicle and struck it into electric wires of 11000 KW and electric current passed through the offending vehicle, due to which, all the occupants of offending vehicle got down from the said truck, whereas Harpal Singh received electric shock while getting down from the offending vehicle. He further deposed that the accident took place due to rash and negligent driving of offending vehicle by Amrik Singh. This witness has been subjected to scathing cross-examination but nothing could be elucidated from this witness to shake his veracity or to make his presence at the time of accident doubtful.

10. A perusal of the examination of eye witness-Ishar Singh as CW-3 reveals that it was due to rash and negligent driving of the offending vehicle by driver (Amrik Singh) that the offending vehicle struck in the electric wires of 11000 KW and electric current passed through the offending vehicle. If the driver would have been careful, the deceased-Harpal Singh could not receive electric shock while getting down from the offending vehicle. Even the author of DDR (Ex.C1) i.e. Ramphal was examined as CW-2 who again stated in his examination that the accident was caused due to rash and negligent driving of Amrik Singh (Driver of Truck bearing registration No.PB-11BR-6413).

11. The award further shows that Amrik Singh-driver who stepped into the witness box as RW2 in his examination-in-chief stated that the accident was not caused due to rash and negligent driving of offending vehicle by him but in his cross-examination, he admitted that accident took place due to touching of electricity wires with his truck. He further admitted that he also suffered mild electric shock in the accident and that Harpal Singh died in the accident due to electric shock. It is further revealed from the award that the accident took place in the month of September at about 5:30 p.m. when there was sufficient day light and it cannot be assumed that driver of the offending vehicle could not notice the electric wires hanging on the road. Further, the accident could have been avoided if the driver was vigilant and had taken proper precautions while driving the offending vehicle, which he negligently failed to observe. A perusal of the award further shows that the claim petition has rightly been decided by discussing each and every aspect of the case. Therefore, the Tribunal has rightly decided Issue No.1 in favour of the respondents/claimants.

12. So far as the question regarding compensation granted to the respondents is concerned, Ld. Tribunal took into consideration the Minimum Awards Act, 1948 as per law laid down by Hon'ble the Supreme Court in ***Neeta Vs. Divisional Manager, Maharashtra State Road Transport Corporation, Kohlapur, (2015) 3 SCC, 590***. Since except oral submissions of CW-1-Ram Piari and CW-2 Ramphal, there was nothing on record to prove the job and income of the deceased-Harpal Singh regarding determination of compensation which the claimants are entitled to, Ld. Tribunal decided as under:-

23. *In the State of Punjab, as per notification issued by the office of Labour Commissioner, Punjab, bearing No ST/28009 dated 23.10.2018, the minimum wages fixed for an unskilled labourer w.e.f. 01.09.2018 are ₹ 8077.71 paise per month, taking it as his monthly income, the annual income of deceased Harpal*

*Singh comes to ₹96,932/-. The claimants have stated in the claim petition that age of deceased Harpal Singh at the time of accident was 30 years. However, in the copy of postmortem report, Ex C2, the age of the deceased is mentioned as 25 years. The respondents have not led any evidence to rebut the age of the deceased. As such, the age of the deceased at the time of his death is taken to be as 30 years. In **Sarla Verma vs. Delhi Transport Corporation, 2009(3) R.C.R. (Civil) 77 (SC)** the Hon'ble Supreme court has held that where deceased was bachelor, deduction towards personal and living expenses of the deceased should be 50% and that multiplier of 17 should be applied where the deceased was between the age group of 26 to 30 years. Further, in **National Insurance Company Ltd, vs. Pranay Sethi, 2017(4) R.C.R. (Civil) 1009 (SC)** the Hon'ble Supreme Court has held that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be ₹15,000/-, ₹40,000/- and ₹15,000/-, respectively. It has also been held in the said judgment that for the purpose of future prospects, in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be made where the deceased was below the age of 40 years. The judgment in **Pranay Sethi's** case (supra) was considered and clarified by the Hon'ble Apex court in an authority titled as **Magma General Insurance Company Ltd. vs. Nanu Ram alias Chuhru Ram & others, 2018(4) R.C.R. (Civil) 333**, wherein it has been held that each dependent of the deceased is entitled to consortium of ₹ 40,000/-i.e. spousal consortium to wife or husband on death of the spouse, parental consortium to children upon death of parent, and filial consortium to parents on death of their minor child or unmarried son or daughter. In **Shri Ram General Insurance Company Limited vs. Bhagat Singh Rawat and others, Civil Appeal Nos. 2410-2412/2023 [@ SLP (C) Nos. 11669-11671/2000], decided on 27.03.2023**, the Hon'ble Apex Court has held as under:-*

"We are, however, of the view that the total amount has to be assigned under a particular heading and that will go depending on the number of legal heirs present

The amounts fixed in terms of Pranay Sethi's case (supra) are Rs. 50,000/- and Rs. 40,000/- respectively under the two heads and that should be the total amount payable.

Therefore, keeping in view the law laid down in the authorities mentioned supra, the compensation payable to the claimants is calculated as under:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount in ₹</i>
<i>1.</i>	<i>Annual income of the deceased</i>	<i>96,932/-</i>
<i>2.</i>	<i>Income after adding future prospects @ 40%</i>	<i>96,932+38,772 = 1,35,704/-</i>
<i>3.</i>	<i>Dependency of the claimants after deducting 50% towards personal and living expenses of the deceased</i>	<i>1,35,704-67,852=67,852/-</i>
<i>4.</i>	<i>Compensation by applying the multiplier of 17</i>	<i>67,852 X 17 = 11,53,484/-</i>
<i>5.</i>	<i>Funeral expenses</i>	<i>16,500/-</i>
<i>6.</i>	<i>Loss of estate</i>	<i>16,500/-</i>
<i>7.</i>	<i>Consortium</i>	<i>44,000/-</i>
	<i>Total</i>	<i>12,30,484/- (rounded of to Rs.12,30,500/-)</i>

13. In view of the above, this Court does not find any infirmity in the Award dated 08.08.2023 and the amount of compensation awarded to the tune of **Rs.12,30,500/-** alongwith interest @ 7.5 % per annum from the date of filing the claim petition till its realisation, is not on the higher side.

14. Hence, the present appeal is Dismissed.

15. All pending applications, if any, stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

January 10, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable:	Yes / No