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

FAO-1174-2020 (O&M)

Date of Decision : 26.08.2025

PEPSU ROAD TRANSPORT CORP. AND ANR

.... Appellants

VERSUS

RAJA SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anupam Singla, Advocate for the appellants.

Mr. Ashish Gupta, Advocate for respondents No.1 to 4.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the owner of the offending vehicle aggrieved by the award dated 23.10.2019 passed by the Motor Accident Claims Tribunal, Moga (hereinafter referred to as the 'Tribunal'). The parties are referred to as the owner, the driver and the claimants for the sake of clarity.

2. Brief facts relevant to the present *lis* are that on 14.10.2017 at about 6.00 to 7.00 pm deceased Gurdev Kaur was going on foot from her Village to Moga along with Sona Singh @ Sanu Singh @ Jaspreet Singh. They were walking on the correct side i.e. left-hand side of the road on kutchra berm and reached near Chowk of Village Salina on Ferozepur-Moga G.T. Road. In the meantime PRTC bus bearing No.PB-04/S-0103, which was being driven by the driver of the appellants, came from Ferozepur side in a rash and negligent manner and hit Gurdev Kaur. Resultantly, she was thrown on the

road and suffered multiple and grievous injuries. She was immediately taken to Rajeev Hospital, Moga in which she was given first aid and referred to Guru Gobind Singh Medical College, Faridkot where she later succumbed to her injuries on 16.10.2017. FIR No.111 dated 16.10.2017 under Sections 304-A, 279, 337, 338 IPC was registered at Police Station Sadar Moga. On notice the respondents appeared and filed their joint written statement raising various preliminary objections and stating therein that Gurdev Kaur herself was at fault.

3. From the pleadings of the parties, the following issues were framed :

1. Whether death of Gurdev Kaur took place in Motor Vehicular accident occurring due to rash and negligent driving of bus bearing No.PB-04/S-0103 by respondent No.3 ? OPP
2. Whether claimants are entitled to compensation, if so to what extent and from whom ? OPP
3. Relief.

4. The Tribunal, holding the driver negligent in driving the offending vehicle, awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹9,000
2.	Annual income	[₹9,000 x 12] = ₹1,08,000
3.	Future prospects 10%	[₹1,08,000 + ₹10,800] = ₹1,18,800
4.	Multiplier of '9'	[₹1,18,800 x 9] = ₹10,69,200
5.	Loss of consortium	[₹40,000 x 4] = ₹1,60,000
6.	Loss of estate	₹15,000
7.	Funeral expenses	₹15,000
	Total Compensation	₹12,59,200

5. Learned counsel for the owner would contend that the deceased herself was negligent while crossing the road and as such no fault could be found with the driving of the driver of the offending vehicle. It is further the contention of the learned counsel that there is a delay of 2 days in lodging the FIR.

6. *Per contra*, learned counsel for the claimants would contend that Sona Singh @ Sanu who was accompanying his mother – Gurdev Kaur – on the fateful day stepped into the witness box as CW-1 and stated that the bus was being driven in a rash and negligent manner by the driver and an FIR was also registered. Learned counsel while referring to the chargesheet (Ex.C2) and final report (Ex.C3) under Section 173 Criminal Procedure Code, 1973 has contended that it was duly proved on the record that the present is a case of rash and negligent driving. Learned counsel for the claimants has further pointed out that the amounts awarded under the conventional heads and under the head loss of consortium are not in accordance with the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680], **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors.** [(2018) 18 SCC 130] and **N. Jayasree & Ors. vs. Chola mandalam M.S General Insurance Company Ltd.** [2021(4) RCR (Civil) 642]. Learned counsel for the claimants has further relied upon the provisions of Order 41 Rule 33 CPC to contend that even though no cross appeal is filed, the compensation can be enhanced and has relied upon the judgment of the Hon'ble Supreme Court in the case of **Surekha & Ors. vs. Santosh & Ors.** [2021(1) PLR 795].

7. Heard.

8. In the present case the person accompanying the deceased on the fateful day had stepped into the witness box as CW-1 and stated regarding the factum of the accident and the manner in which the same took place. Despite lengthy cross-examination, nothing could be elicited from him and the testimony of the said witness remained unshaken. Further still, an FIR had been registered against the driver and the chargesheet had also been presented.

9. The argument of the learned counsel for the owner that there was two days' delay in lodging the FIR hence the claim petition ought to have been dismissed cannot be accepted. It is trite that the Tribunal has to decide the matter on the touchstone of probabilities and in the present case the statement of CW-1 clearly proved the factum of the accident and the manner in which the accident took place. The Hon'ble Supreme Court in the case of **Ravi vs. Badrinarayan & Ors. [2011(2) RCR (Civil) 190]**, wherein there was a delay of 03 months in lodging the FIR, has held as under :

'21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been

able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.'

Accordingly, mere delay in lodging the FIR would not be fatal to the case of the claimants.

10. Further, the Hon'ble Supreme Court in the case of **Surekha** (supra) has held as under :

"3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants".

As per Order 41 Rule 33 of the Code of Civil Procedure, 1908, reproduced hereunder, even in the absence of a cross appeal an order can be passed in favour of the respondents.

"33. Power of Court of Appeal - The appellate court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make

such further or other decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection and may, where there have been decrees in cross-suits or where two or more decrees are passed in one suit, be exercised in respect of all or any of the decrees, although an appeal may not have been filed against such decrees.”

In view of the order in the case of **Surekha** (supra) and by invoking the provisions of Order 41 Rule 33 CPC, the argument of the learned counsel for the claimants that the compensation awarded under the head loss of consortium and under the conventional head is on the lower side is accepted and the compensation is modified accordingly. Income of the deceased as ₹9,000 per month, an addition @ 10% towards future prospects and the multiplier of 9 as applied by the Tribunal are maintained. The amount awarded under the conventional heads and under the head ‘loss of consortium’ is not as per the law laid down by the Hon’ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra). Hence, the claimants would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate and ₹18,000 (₹15,000 + 20% increase) towards funeral expenses. The claimants being children of the deceased would

also be entitled to ₹48,000/- each (₹40,000 + 20% increase) towards loss of consortium.

11. Accordingly, the reworked compensation to which the claimants are held entitled to, is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹9,000
2.	Annual income	[₹9,000 x 12] = ₹1,08,000
3.	Future prospects 10%	[₹1,08,000 + ₹10,800] = ₹1,18,800
4.	Multiplier of '9'	[₹1,18,800 x 9] = ₹10,69,200
5.	Loss of consortium (i) Parental (children)	[₹48,000 x 4] = ₹1,92,000
6.	Loss of estate	₹18,000
7.	Funeral expenses	₹18,000
	Total Compensation	₹12,97,200

12. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimants as directed by the Tribunal.

13. In view of the above discussion, the present appeal is disposed off in the above terms and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

26.08.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*