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

FAO-3061-1999 (O&M)

Date of Decision : 09.01.2025

Satya Devi

... Appellant(s)

Versus

M/s Banga Brothers & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Nikita Sharma, Advocate for
Ms. Supriya Garg, Advocate for the appellant.

Mr. Shubham Gupta, Advocate for
Mr. R.K. Bashamboo, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the award dated 23.04.1999 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'Tribunal').

2. Brief facts relevant to the present *lis* are that the claim petition was filed by Satya Devi wife of Kalu Ram (deceased) averring therein that on 19.06.1995 at about 1.30 pm, she and Kalu Ram, who was 48 years of age and was working as a labourer, were going from Village Manguwal to Village Bharatgarh and when they reached near GT Road in between Manguwal and Bharatgarh, a Tempo bearing registration No.HP-34-4021 coming from the side of Rupnagar at a very high speed and being driven by respondent No.2 in a rash and negligent manner struck against Kalu Ram. As a result, Kalu Ram fell down and received multiple injuries and succumbed to his injuries. Joint written statement was filed by the owner and

driver of the offending vehicle (respondent Nos.1 and 2 herein) denying the allegations. It was stated that the driver was driving the offending vehicle with due care and caution and that the deceased, without observing traffic rules, tried to cross the road and despite repeated honking and the offending vehicle being slowed down, the deceased ran across the road resulting in the accident. Similar written statement was filed by the Insurance Company (respondent No.3). The following issues were framed by the Tribunal :

1. Whether Kalu Ram was involved in an accident with Tempo Swaraj Mazda bearing No.HP-34/4021 ?
OPP
2. Whether the accident took place on account of rash and negligent driving of respondent No.2 ? OPP
3. Whether respondent No.2 was not having a valid driving licence at the time of alleged accident ? OPR
4. To what amount of compensation, the claimants are entitled to recover. If so, from whom ? OPP
5. Relief.

3. The Tribunal vide the impugned award, on issue No.1 held that it is not a case of rash and negligent driving and awarded ₹50,000/- as compensation on account of death of Kalu Ram. Hence, the present appeal.

4. Learned counsel for the claimant-appellant would contend that Satya Devi widow of Kalu Ram (deceased), who was also the eye-witness of the accident since she was walking alongwith her husband when the accident took place, stepped into the witness box as PW2 and had categorically stated

that the accident took place due to rash and negligent driving of the driver (respondent No.2) of the offending vehicle. It is further the contention that no suggestion was put to her that the accident did not take place in the manner as suggested. It is further the contention of the learned counsel that the driver of the offending vehicle chose not to step into the witness box. It is further the contention of the learned counsel that the income of the deceased ought to have been as per the minimum wages prevailing at the time of the accident which were ₹1,350/- per month. It is further the contention of the learned counsel that deduction of 1/3rd would have to be applied and that future prospects @ 25% to be added and that multiplier of '13' would be applicable, in the present case. It is further contended by the learned counsel that the claimant-appellant would also be entitled to the amounts under the conventional heads as well as under the head loss of consortium as per the law laid down by the Hon'ble Supreme Court. In support of her contentions, she has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, **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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra* the learned counsel for respondent No.3 has contended that there is no FIR and in the DDR which was recorded on the statement of the son of Kalu Ram, namely, Nachhattar Singh, it was stated

that there was no fault of the driver of the offending vehicle (respondent No.2 herein) and, hence, finding on issue No.1 cannot be faulted with. The learned counsel would further contend that in the present case there was only one claimant, hence, deduction @ 50% would be applicable and that the children were not even the claimants and there is nothing on the record to show that they were dependent on the deceased. It is further the contention of the learned counsel that there is no scope of any enhancement in the present case.

6. I have heard the learned counsel for the parties.

7. In the present case, the eyewitness – Satya Devi – had stepped into the witness box as PW2 and had stated that the accident took place due to rash and negligent driving of the driver of the offending vehicle (respondent No.2). In the written statement filed by the owner and driver of the offending vehicle, the factum of the accident was not denied. It was, however, denied that the accident took place due to rash and negligent driving of the driver of the offending vehicle. The driver chose not to step into the witness box. In the cross-examination of Satya Devi – PW2, not even a suggestion was put to her that the accident did not take place due to the rash and negligent driving of the offending vehicle. There is no reason to disbelieve the statement of PW2 – Satya Devi – in the absence of any evidence to the contrary. In view thereof, finding on issue No.1 is reversed and it is held that the accident took place due to rash and negligent driving of the driver of the offending vehicle.

8. In the present case, minimum wages of an unskilled worker at the relevant time were ₹1,350/- per month and, hence, the income of the

deceased is assessed as ₹1,350/- per month. 50% deduction would have to be applied as there is only one claimant. There is no evidence on the record that the children were dependent on the deceased. Further, as per the law laid down by the Hon’ble Supreme Court in the case of **Pranay Sethi** (supra), 25% addition would have to be made towards future prospects. The deceased was 48 years of age and, hence, multiplier of ‘13’ would be applicable as per the law laid down by the Hon’ble Supreme Court in the case of **Sarla Verma** (supra). The claimant-appellant would also be entitled to Rs.18,000/- (Rs.15,000+20% increase) towards loss of estate and Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses and the claimant-appellant (widow of the deceased) would also be entitled to Rs.48,000/- (Rs.40,000+20% increase) towards loss of consortium 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). Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹1,350/-
2	Annual Income	₹16,200/- [₹1,350 x 12]
3	Deduction 50%	₹8,100/- [₹16,200-8100]
4	Future Prospects - 25%	₹10,125/- [₹8,100+2,025]
5	Multiplier - 13	₹1,31,625/- [₹10,125 x 13]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (ii) Spousal's	₹48,000/-
	Total Compensation	₹2,15,625/-

9. 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.

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

09.01.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO