



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

FAO-826-1999 (O&M)

Date of Decision: February 21, 2025

Reshma and others

...Appellants

VERSUS

Onkar Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.J.S.Dhull, Advocate
for the appellants.

Respondent No.1-in person.

Mr.Ambika Luthra, Addl. Advocate General, Haryana
for respondent No.2.

ARCHANA PURI, J.

The appellants-claimants have filed the present appeal, thereby seeking enhancement of the compensation granted by learned Motor Accident Claims Tribunal, on account of death of Jai Pal, in a motor vehicular accident, which took place on 13.02.1996.

At the very outset, it is pertinent to mention that unfortunately the record of learned Tribunal is not available, on account of the same having destroyed in the fire incident, which took place in the High Court premises, in the year 2011.

In the given circumstances, learned counsel for the parties have stated at bar that they have no objection, if the appeal is decided, on the basis



of the material available on record.

The accident had taken place on 13.02.1996. On the basis of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, on account of rash and negligent driving of bus bearing registration No.HR-03-8002, driven by respondent No.1-Onkar Singh and the same resulted into death of Jaipal.

So far as, the rashness and negligence is concerned, it is pertinent to mention that no evidence has been led by the respondents, to dispute the factum and manner of taking place of the accident. In the given circumstances, in the absence of any further material to appreciate this issue, there is no further necessity to open this question, on account of lack of record.

Be it noted that the appeal has been filed for seeking enhancement of the compensation.

From the material, it is evident that deceased Jai Pal was 18 years old, at the time of accident. He was asserted to be working as labourer and earning Rs.2000/- per month. However, learned Tribunal had assessed his notional earnings as Rs.1500/- per month, while considering the minimum wages, prevalent at the relevant time and deduction to the extent of 1/3rd made and the loss of dependency was assessed as Rs.1,000/- per month. Considering the age of deceased Jai Pal, multiplier of '16' was applied and the compensation was worked upon as Rs.1,92,000/-. Besides the same, another amount of Rs.5000/- was granted for expenses of transportation of dead body. In total, the compensation of Rs.1,97,000/- was granted.



However, the 'work on' of the compensation aforesaid, do call for re-computation, as per the prevalent law.

At the very outset, it is pertinent to mention that the claim petition was filed by Smt.Reshma, mother of deceased Jai Pal as well as brother and sister, namely Urmila and Jaibir, who were minors, at the relevant time. Also, it is pertinent to mention that father of the deceased was no more, at the time of filing of the claim petition. Considering the same and deceased being eldest child of the family, it is quite obvious that younger siblings, ought to be dependent upon the deceased. That being so, the compensation ought to have been worked upon.

Learned Tribunal has rightly assessed the earnings of the deceased as Rs.1500/- per month. Considering the age of the deceased, obviously, he must be unmarried. Though, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, deduction ought to be made to the extent of 50%, in case of bachelor, but however on account of minor siblings and widow mother being there, who, as observed aforesaid, are taken as dependents of the deceased, therefore, deduction of 1/3rd as 'personal expenses' is just and reasonable. Taking it to be so, the loss of dependency is worked upon as Rs.1000/- per month.

To the said amount, addition on the count of 'future prospects' ought to be made. Considering the age of the deceased to be 21 years, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition of 40% ought to be made, on the count of 'future prospects'. Thus, the income of the deceased is worked upon as Rs.1000+400=Rs.1400/-, annual whereof comes to be Rs.16,800/-.



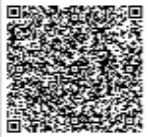
Considering the age of the deceased, as per *Sarla Verma’s case (supra)*, the appropriate and suitable multiplier to be applied is ‘18’, instead of ‘16’, as applied by learned Tribunal. Thus, by applying the same, the loss of dependency, works out to be Rs.16800x18=**Rs.3,02,400/-**.

Besides the aforesaid, as per '*Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*', each of the appellants-claimants are entitled to ‘parental’, ‘spousal’ or ‘filial’ consortium, as required. Considering the same, as per *Pranay Sethi’s case (supra)*, an amount of Rs.40,000/- is required to be granted to the dependents, which also called for further enhancement to the extent of 10%, after period of every three years of pronouncement of the judgment and taking it to be so, the compensation, on the count of ‘loss of consortium’, at present, works out to be Rs.48,400/- to each of the claimants i.e. Rs.48400x3=**Rs.1,45,200/-** and likewise, on the counts of ‘loss of estate’ and ‘funeral expenses’, the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to appellants-claimants, on account of death of Jai Pal, is re-computed, as herein given:-

Loss of dependency	:	Rs.3,02,400/-
Loss of consortium	:	Rs.1,45,200/
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
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Total	:	Rs.4,83,900/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.4,83,900-**



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1,97,000=Rs.2,86,900/-. On the enhanced amount of the compensation i.e. Rs.2,86,900/-, the appellants-claimants No.1 and 2 shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. Out of the enhanced compensation, as now worked upon, i.e. Rs.2,86,900/-, appellants-claimants No.2 and 3 are held entitled to Rs.50,000/- each, whereas, appellant-claimant No.1 is held entitled to residue amount of Rs.1,86,900/-.

Accordingly, the impugned Award dated 28.08.1998 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

With the above observations, the present appeal stands allowed.

February 21, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No