



FAO-314-2001 (O & M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

FAO-314-2001 (O & M)

Date of decision:27.02.2025

DEEPAK KUMAR & ORS.

...APPELLANTS

VS.

SUNDER LAL & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Madan Pal, Advocate
for the appellant.Mr. Suvir Dewan, Advocate
for respondent No.3.

SUVIR SEHGAL, J.

1. *Xerox* copy of the paper-book supplied by counsel for the appellant is taken on record.

2. Instant appeal has been filed under the Motor Vehicles Act, 1988, (for brevity "MV Act") by the legal representatives of Ram Sarup-deceased. Appellants have sought enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short "the Tribunal"), Panipat, vide award dated 13.10.1999.

3. Facts, leading to the filing of the appeal, are that on 23.10.1988, Ram Sarup was riding his scooter from Karnal towards Panipat. Jagat Parshad (PW6) was following him in a car. Offending car bearing registration No.DLY-1652, which was rashly driven by respondent No.1 collided with his scooter from behind and the driver sped towards Delhi. As

a result of the impact, Ram Sarup sustained multiple injuries and died on the



FAO-314-2001 (O & M)

-2-

spot. An FIR (Ex.P5) bearing No.302 dated 23.10.1988 was lodged under Sections 279, 304-A IPC at Police Station, Sadar, Panipat at the instance of Jagat Prashad. Appellants filed a claim petition under Section 166 of the MV Act, claiming compensation on account of the accidental death of Ram Sarup, which has been partly accepted vide award dated 13.10.1999 and they have been granted compensation of Rs.3,42,300/-. Respondents have been held jointly and severally liable to pay the amount, along with interest @ 12% per annum from the date of filing of the claim petition. However, the liability of respondent No.3-Insurance Company has been limited to Rs.50,000/-.

4. I have heard counsel for the parties and have considered their respective submissions.

5. On the basis of the evidence adduced, the Tribunal has come to the conclusion that the accident took place on account of rash and negligent driving by respondent No.1 and Ram Sarup died in the motor vehicle accident. Tribunal found that respondent No.1 had a valid driving license and offending vehicle was fully insured under insurance policy Ex.R2.

6. Compensation was assessed by assuming the income of the deceased, who was employed as a Junior Engineer in Horticulture Department, Panipat, as Rs.2,600/- per month on the basis of salary certificate, Ex.P2 and pay bill, Ex.P1, which does not require any modification. Tribunal has applied a multiplier of 16, which has to be reduced to 15 considering that the deceased was 40 years of age at the time of accident. Tribunal has deducted 1/3rd from the total salary towards

personal and living expenses, which deserves to be reduced to 1/5th as the



number of dependents exceeds six. Tribunal has neither considered the future prospects of the deceased nor granted the appropriate compensation under the conventional heads.

7. In the light of the principles laid down by the Supreme Court in *Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121*, *National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680* and *Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130*, claimants are entitled to award under conventional heads, for future prospects, etc. The court is of the view that head-wise computation deserves to be modified as below:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.2,600/-
2	Deduction towards personal expenditure 1/5 th	Rs.520/- (Rs.2,600/- X 1/5)
3	Future prospects	Rs.624/- (30% of Rs.2,080/-)
4	Total Monthly Income	Rs.2,704/- (Rs.2,080/ + Rs.624/-)
5	Multiplier	15
6	Annual dependency	Rs.4,86,720/- (Rs.2,704/- X 12 X 15)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium	Rs.3,36,000/- (Rs.48,000/- payable to each of seven dependents)
10	Total compensation	Rs.8,58,720/-
11	Less: Award by MACT	Rs.3,42,300/-
12	Enhancement	Rs.5,16,420/-



FAO-314-2001 (O & M)

-4-

8. Accordingly, the appellants are held to an additional compensation of Rs.5,16,420/-, which shall be payable by the respondents with interest at the rate of 7.5% per annum from the date of the filing of the claim petition. However, the liability of respondent No. 3 shall only be limited to Rs.50,000/- in terms of the insurance policy, Ex.R2. However, in view of the judgments of the Supreme Court in **Oriental Insurance Co. Ltd. Vs. Cheruvakkara Nafeessu and others (2001) 2 SCC 491** and **New India Assurance Co. Ltd. Vs. Vimal Devi 2010 ACJ 2878**, respondent No.3/Insurance Company is held liable to pay the entire awarded amount, including the enhanced amount, to the claimants. Upon making such payment, insurance company can execute the award against owner and driver of the offending vehicle as per Section 174 of MV Act.

9. Appeal is disposed off.

10. As the main appeal has been decided, pending application(s), if any, is/are disposed off.

27.02.2025

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(SUVIR SEHGAL)

JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No