

**FAO-1278-2008 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****215****FAO-1278-2008 (O&M)**

Date of Decision:28.01.2025

RAKSHA DEVI**.... Appellant****V/S****GURCHARAN SINGH AND ORS.****.... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Karamjit Verma, Advocate for the appellant.

Mr. Puru Jarewal, AAG, Punjab.

Mr. Vinod Gupta, Advocate for the Insurance Company.

*********SUVIR SEHGAL, J.**

1. Instant appeal has been filed under the Motor Vehicles Act, 1988 by the widow of Ramji Dass-deceased, who has sought enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short “the Tribunal”), Ludhiana vide award dated 30.10.2006.

2. Facts leading to the filing of the appeal are that on 12.07.2004, Ramji Dass was travelling on a motor cycle driven by Darshan Singh. A Swaraj Mazda driven rashly by respondent No.1 hit the motor cycle from the rear side. Both the motor cycle riders fell on the road and Ramji Dass succumbed to the injuries. An FIR bearing No.93 dated 12.07.2004 was registered for offences under Sections 279, 337, 338, 427, 304-A of IPC



at Police Station Samrala. The appellant who is the wife of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation, which has been accepted vide award dated 30.10.2006 and she has been granted compensation of Rs.1,74,800/-, along with interest @ 7% per annum from the date of filing of the claim petition.

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

4. 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 Ramji Dass died due to the injuries sustained by him in the motor accident.

5. It has been established that the deceased retired from the Punjab Education Department and drawing a pension of Rs. 4,820/- per month. He was employed as a teacher at National Public Secondary School, Samrala and drawing a salary of Rs.3,000/- per month. The Tribunal has erred in deducting the family pension drawn by the widow from the pension payable to the deceased. It has been held by the Supreme Court in *Helen C. Rebello Versus Maharashtra State Road Transport Corporation, 1999(1) SCC 90* that family pension is earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than accidental death. There is no correlation between the two. Therefore,



monthly income of the deceased has to be taken as Rs.7,820/-.

6. The Tribunal has correctly applied a cut of 1/3rd from the income for personal expenditure which does not deserve any modification. The Tribunal has applied a multiplier of 6, however, in view of the judgment of the Supreme Court in Smt. Sarla Verma Versus Delhi Transport Corporation and another, (2009) 6 SCC 121, multiplier deserves to be enhanced to 9 as the deceased was 59 years of age. Claimants are also entitled to 10% increase for future prospects as has been held by the Supreme Court in National Insurance Company Limited Versus Pranay Sethi and Ors. (2017) 16 SCC 680. The Tribunal has awarded an amount of Rs.5,000/- as consortium and Rs.2,000 for funeral expenses which deserves to be enhanced to Rs.48,000 and Rs.18,000 respectively and Rs.18,000 is also awarded for loss of estate following the dictum in Magma General Insurance Company Limited Versus Nanu Ram @ Chuhru Ram and others, 2018(18) SCC 130.

7. By including these amounts, the compensation payable to the appellants works out as under:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.7,820/-
2	After Deduction towards personal expenditure 1/3rd	Rs.5,213/- (Rs.7,820 - Rs.2,607/-)
3	Future prospects	Rs.521/- (10% of Rs.5,213/-)



4	Total Monthly Income	Rs.5,734/- (Rs5,213/- + Rs.521/-)
5	Multiplier	9
6	Annual dependency	Rs.6,19,272/- (Rs.5,734/- X 12 X 9)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium	Rs.48,000
11	Total compensation	Rs7,03,272/-
12	Less: Award by MACT	Rs.1,74,800/-
13	Enhancement	Rs.5,28,472/-

8. Accordingly, the appellant is held to an additional compensation of Rs.5,28,472/-, which shall be payable to her with interest at the rate of 7% per annum from the date of the filing of the claim petition.

9. Appeal is disposed off.

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

28.01.2025.
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No