



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

(i) FAO-1239-2009 (O&M)

Sube Singh

...Appellant

VERSUS

Sant Ram and others

...Respondents

(ii) XOBJC-37-CII-2010

Sube Singh

...Appellant

VERSUS

Sant Ram and others

...Respondents

Date of Decision: May 27, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Bhuwnesh Lakhera Advocate
 for the appellant.

 Mr.R.D.Yadav, Advocate
 for respondents No.1 to 4/cross-objectors

ARCHANA PURI, J.

The present appeal has been filed by appellant-Sube Singh, thereby, assailing the Award dated 10.11.2008 passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to the claimants, on account of death of Kamla Devi, in a motor vehicular accident.

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In pursuance of the notice issued, the respondents-claimants made appearance and filed cross-objections bearing No.XOBJC-37-CII-2010.

The essential facts, to be noticed, are as follows:-

That, on 29.04.2004, at about 9.30 a.m., Kamla Devi (since deceased), while carrying heap of fodder on her head, was crossing the National Highway No.8, in the area of village Kharkhara, after observing the traffic on the road. In the meantime, a motorcycle bearing registration No.HR-26J-2191, being driven in a rash and negligent manner and at a very high speed by Sube Singh (appellant), came from the Rewari side and struck against Kamla Devi, as a result of which, she had sustained grievous injuries. She was taken to Raman Munjal, Hospital, Sidhrawali, wherefrom, she was referred to All India Institute of Medical Sciences, New Delhi and ultimately, she succumbed to her injuries on 23.05.2004. Criminal case was registered qua the accident in question and addition of offence under Section 304-A IPC was made later on.

The claim petition was filed by Sant Ram, husband of deceased and four minor children of the deceased, thereby, seeking compensation, on account of death of Kamla Devi. The deceased was asserted to be 40 years old and she was indulging in agricultural work and also used to run milk dairy and her earnings were asserted to be Rs.6000/- per month.

In pursuance of the notice issued, respondent No.1-Sube Singh (appellant) had made appearance and filed reply. However, respondent No.2-Ramesh Yadav, who was the registered owner of the offending motorcycle, had not made appearance and as such, was proceeded against

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ex-parte.

Sube Singh, in his written statement, had denied the accident in toto. In fact, he had taken the plea that FIR has been wrongly registered against him, in collusion with local police and he has been falsely implicated.

From the pleading of the parties, following issues were framed:-

- “1. Whether the accident in question resulting into the death of Kamla Devi wife of Shri Sant Ram took place due to the rash and negligent driving of offending vehicle motorcycle bearing registration No.HR-26J-2191 by its driver/respondent No.1 as alleged? OPP*
- 2. If issue No.1 is proved in affirmative, whether the claimants are entitled to the compensation on account of death of Kamla Devi and if so so that amount and from whom?OPP*
- 3. Relief”*

To substantiate their version, Sant Ram, husband of the deceased, stepped into witness box as PW-2 and his affidavit is Ex.PW2/A. Further, the claimants examined PW-1 Suman Devi and her affidavit is Ex.PW1/A and PW-3 Inderjeet, Addl. Ahlmad, in the Court of ACJM, Rewari. Thereafter, the evidence was closed.

To rebut the aforesaid evidence, Sube Singh-driver himself stepped into witness box as RW-2 and his sworn testimony, in the form of affidavit is Ex.RW2/A and further also examined RW-1 Bhoop Singh, whose affidavit is Ex.RW1/A. Sube Singh also examined RW-3 Ramesh Kumar, who was impleaded as respondent No.2, in the capacity of being registered owner of the vehicle in question and his affidavit is Ex.RW3/A.

After hearing counsel for the parties and on appraisal of the

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evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, on account of rash and negligent driving of motorcycle bearing registration No.HR-26J-2191, driven by Sube Singh and the same caused fatal injuries on the person of Kamla Devi.

Furthermore, it was concluded by learned Tribunal that deceased was 40 years old. However, one of her minor son, namely Vishnu Parkash had died during the pendency of the claim petition. On appraisal of the evidence, the contribution of the deceased towards the family was taken as Rs.1500/- per month. Multiplier of '15' was applied and the compensation was worked upon as Rs.2,70,000/- (1500x12x15). Besides the same, another amount of Rs.15,000/- was awarded towards medical expenses and even, an amount of Rs.2000/- was awarded as 'funeral expenses' and Rs.5,000/- on the count of 'loss of consortium'. Thus, the total compensation awarded was Rs.2,92,000/-. Respondents No.1 and 2 i.e. Sube Singh (appellant) and Ramesh Yadav were held liable to pay the aforesaid compensation, jointly and severally.

Being aggrieved, appellant-Sube Singh (driver of the motorcycle bearing registration No.HR-26J-2191), has filed the present appeal, for setting aside the impugned Award, whereas, the respondents-claimants have filed the cross-objections, thereby, seeking enhancement of the compensation.

Learned counsel for the parties heard and record perused.

At the very outset, it is submitted by learned counsel for the appellant that the evidence, brought on record, has not been appraised in correct perspective. In fact, learned Tribunal had not considered the fact of

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non-examination of Anguri Devi, who was not examined as witness in the present case, though, she was accompanying the deceased, at the relevant time. Furthermore, also it is asserted that there were stated to be 10-15 persons present at the scene of accident, but none of them has been examined as a witness. Moreover, it is submitted that it is highly impossible that a person would run away from the spot, in the presence of 10-15 persons, after causing such a serious accident.

While summing up his submissions, learned counsel for the appellant contended that the false case was registered against the appellant and the same does not stand established. As such, he made a prayer for acceptance of the appeal and setting aside the impugned order.

On the other hand, learned counsel for the respondents-claimants/cross-objectors, has refuted the claim of the appellant. In fact, it is submitted that from the evidence, brought on record, the blameworthiness, on the part of Sube Singh stood amply established and therefore, learned Tribunal has appropriately considered the evidence and concluded about the rashness and negligence, on the part of Sube Singh and causing fatal injuries to Kamla Devi. In fact, it is submitted that compensation awarded by learned Tribunal is on lower side, which calls for extensive enhancement. It is submitted that many counts, which ought to have been taken into consideration, have been given amiss. The minimal compensation has been awarded. It is submitted that determination of quantum is not a realistic 'work on'. In fact, it is not a 'just compensation' as was required to be worked upon. Thus, counsel made a prayer for enhancement of the compensation.



So far as, the factum of accident is concerned, as observed aforesaid, the claimants had examined PW-1 Suman Devi, who was accompanying the deceased, at the relevant time. Even, she has categorically deposed that Anguri Devi was also accompanying the deceased, at the relevant time. This witness has categorically stated about the manner of deceased, being followed by her as well as Anguri Devi, at a distance of 10-15 steps, while crossing the road. She has categorically stated about the manner of offending motorcycle being driven in a rash and negligent manner, having come from the side of Rewari and struck against Kamla Devi, as a result whereof, Kamla Devi sustained extensive injuries. She also further categorically stated in the affidavit that later on, they came to know about the name of the driver of the motorcycle to be Sube Singh. Also, further she deposed about the death of Kamla Devi, on account of injuries sustained, in the accident in question.

Even, Sant Ram, husband of the deceased, in his affidavit Ex.PW2/A, has deposed about the factum of death of his wife. Besides the same, post-mortem report has also been proved as Ex.PW2/C.

Also, PW-3 Inderjeet, Addl. Ahlmad of the Court of ACJM, Rewari, had brought the summoned record, relating to the criminal case registered against Sube Singh. He proved the copy of the challan, which is Ex.PW3/A, copy of chargesheet is Ex.PW3/B and he also deposed about the case being fixed for prosecution evidence.

Very true, as pointed by learned counsel for the appellant about Anguri Devi, an eye witness, having not been examined. However, the very fact of Anguri Devi, not having been examined by the claimants, do not call

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for any adverse inference to dislodge the version of the claimants. It is not the volume of evidence, which is required to be considered but the quality of evidence, which has to be taken into consideration, while adjudicating the question of fact of accident and manner of taking place of the same.

In this regard, suffice to consider the testimony of PW-1 Suman Devi, who was also accompanying the deceased, besides Anguri Devi, at the relevant time. This witness, as detailed aforesaid, categorically deposed about the factum and manner of taking place of the accident and causing of the fatal injuries, on the person of Kamla Devi. The blameworthiness, on the part of Sube Singh, has been categorically stated by said witness. This witness was cross-examined at length, but however, nothing came forth to dislodge the version of the claimants.

Even though, Bhoop Singh, who is author of the FIR in question has been examined as RW-1, at the instance of Sube Singh, but however, this witness, in his affidavit Ex.RW1/A, has not supported the version of the accident. Rather, in his affidavit, he stated that he was on the other side of the road and he came to know about the accident later on and furthermore, he had stated that police had obtained his signatures on blank papers. In the later portion of the affidavit, he stated that he had not seen the accident and he further also stated that he had not produced the motorcycle and the documents before the police. He also deposed that he never disclosed about the number of the motorcycle to the police, nor he identifies the driver of the motorcycle.

May it be so, the said witness has so deposed. However, very true, as pointed out by learned counsel for the appellant that this witness in the



cross-examination had stated that accident had already taken place before he reached the spot, meaning thereby, he asserts and claims that the accident was never witnessed by him. May it be so, but it is pertinent to mention that FIR in question was got registered by this witness. He has categorically stated about the rashness and negligence, on the part of the driver of the motorcycle bearing No.HR-26J-2191, which caused the accident, as a result whereof, extensive injuries were suffered by Kamla Devi.

Though, the name of the driver of the motorcycle did not surface in the FIR, but suffice to consider that PW-3 Inderjeet, Addl. Ahlmad, has been examined by the claimants, who had proved the copy of challan Ex.PW3/A and chargesheet Ex.PW3/B. He has deposed about the trial faced by Sube Singh, in the Court, vis-a-vis, the accident in question.

In the light of the same, it is also pertinent to mention that Sube Singh stepped into witness box as RW-2. In his affidavit Ex.RW2/A, he categorically denied about himself to be driving the motorcycle on 29.04.2004 and about causing of the accident.

However, fact remains that he is facing trial. In cross-examination, he himself has admitted about this fact. Also, he admitted that he had not filed any revision or appeal against the charges levelled against him. He had also not approached any higher authorities, with regard to alleged false implication in the criminal case.

Considering the testimony of Suman Devi and also taking into consideration the fact of appellant-Sube Singh to be facing trial and the conduct of Sube Singh, as such, more particularly, considering the fact of Sube Singh having produced the motorcycle and the relevant papers, before

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the police, during the course of investigation, as evident from the copy of the recovery memo, placed on record, it stands amply established that the accident was caused due to rash and negligent driving of the offending motorcycle, driven by appellant-Sube Singh and the same resulted into fatal injuries on the person of Kamla Devi. Learned Tribunal had also correctly fastened the liability to be joint and several, upon Sube Singh, in the capacity of being driver and Ramesh Yadav, registered owner of the offending vehicle. As such, the findings on issue No.1 are hereby affirmed.

Now, arises the question of extent of compensation payable to the claimants and scope for enhancement of the same.

Before advertng to consider the compensation as worked upon, it is pertinent to mention that time and again, the Courts have reiterated the concept of '**just**' compensation under Section 168 of the Act. It is settled proposition that the compensation must be fair, reasonable and equitable. The determination of quantum is a fact dependent exercise, which must be liberal and not parsimonious. This exercise has to be as per the contemporaneous position of an individual, which ought to be essentially forward looking. The principle of assessment of compensation is to be guided by the principles of fairness, equity and good conscience.

In the case in hand, even though, it has been asserted by the claimants about the deceased to be following the agricultural pursuit and running a milk dairy, but however, no evidence, in this regard, has come on record. In these circumstances, for all intents and purposes, the compensation qua death of Kamla Devi has to be assessed, while considering her as homemaker.



One has to keep in mind that the contribution made by the lady of the house is invaluable and it cannot be computed in terms of money. There are various gratuitous services rendered by the wife with true love and affection to the children and her husband and managing the household affairs, which cannot be equated with the services rendered by others. Anyhow, some pecuniary estimate has to be made of the services of the housewife/mother. In this context, the term “**services**” is required to be given a broad meaning and must be construed, while taking into consideration the loss of personal care and attention, given by the deceased to her children, as a mother and to her husband, as a wife.

The claim petition was filed by Sant Ram, husband and four children of the deceased, who were all minors, at the relevant time. One of the sons had died, during the pendency of the claim petition. However, the fact remains that at the relevant time, the deceased was taking care of five members of the family, which was in fact a large family and therefore, the duties performed by her were onerous. This fact ought to be taken into consideration, while making assessment of the compensation.

In this backdrop, the ‘work on’ of the compensation, as done by learned Tribunal, do call for re-computation.

It is necessary to mention that learned Tribunal had considered the earnings of deceased Kamla Devi as Rs.1500/- per month. However, this is definitely on lower side. Keeping in view the date of accident, in the present case, at the relevant time, the earnings of an un-skilled worker was Rs.2600/- per month, as prevalent in State of Haryana. Considering the same, the extent of earnings taken by learned Tribunal, do call for

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enhancement. At the same time, it ought to be kept in mind that from the evidence adduced, it stands established that the deceased belong to lower rung of the society and was not having affluent background. Considering the same also and prevalent minimum wages, in modest estimate, earnings of deceased Kamla Devi are taken as Rs.3,000/- per month.

Considering age of deceased to be 40 years, addition of 25%, ought to be made, on the count of 'future prospects' as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*. Thus, addition of Rs.750/- is to be made and after making such addition, the earnings of the deceased, comes to be Rs.3750/- per month. Considering the number of dependents, the deduction of 1/4th is to made, on the count of 'personal expenses', which comes to be Rs.937/- and the residue earnings comes to be $\text{Rs.}3750 - 937 = \text{Rs.}2813/-$, annual whereof is Rs.33,756/-. As per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, considering the age of the deceased, '15' is the appropriate multiplier to be applied. Thus, by applying the same, the loss of dependency comes to be $\text{Rs.}33,756 \times 15 = \text{Rs.}5,06,340/-$.

Besides the aforesaid, on the count of 'loss of consortium', all the claimants, are entitled to prevalent amount of Rs.48,400/- each i.e. $\text{Rs.}48,400 \times 4 = \text{Rs.}1,93,600/-$ and they are also entitled to compensation, on the counts of 'loss of estate' as well as 'funeral expenses', which is Rs.18,150/-, on each count.

Further, the claimants are also entitled to the amount of Rs.15,000/-, on the count of 'medical expenditure' as awarded by learned Tribunal.



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

Loss of dependency	:	Rs.5,06,340/-
Loss of consortium	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Medical expenditure	:	Rs.15,000/-
Total	:	Rs.7,51,240/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.7,51,240-2,92,000=Rs.4,59,240/-**. On the enhanced amount of the compensation i.e. **Rs.4,59,240/-**, the claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the cross-objections, till realization of the enhanced amount of compensation. As claimant Sant Ram has already died, the enhanced amount of compensation, as now worked upon, shall be disbursed to respondents-claimants No.2 to 4, in equal shares.

The impugned Award dated 10.11.2008 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, the appeal filed by appellant-Sube Singh stands dismissed, whereas, the cross-objections filed by the respondents-claimants stands allowed.

May 27, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No