



FAO-5265-2008

-1-

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

(102)

FAO-5265-2008

Date of decision:- 07.01.2025

Charanjit Kaur and another**... Appellants****Versus****Surinder Kaur and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Ms. Gaganbir Kahlon, Advocate for
Mr. Vipin Mahajan, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Rajnish Malhotra, Advocate
for respondent No.3-Insurance Company.

SUVIR SEHGAL, J. (ORAL)

1. Mr. Rajnish Malhotra, Advocate, counsel for respondent No.3 has supplied a copy of the paper-book, which is taken on record.
2. Instant appeal has been filed under the Motor Vehicles Act, 1988 by the legal representatives of Amarjit Singh-deceased. The appellants have sought enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short "the Tribunal"), Gurdaspur vide award dated 31.07.2008.
3. Facts leading to the filing of the appeal are that on 26.11.2005, Amarjit Singh was traveling in an Indigo car, which was being driven by Baljinder Singh. The car met with an accident with another car being rashly

**FAO-5265-2008****-2-**

driven by respondent No.2 at a high speed. Amarjit Singh and Baljinder Singh sustained injuries and they were rushed Civil Hospital, Gurdaspur, from where, they were referred to Amandeep Hospital, Amritsar. Amarjit Singh unfortunately expired on 01.12.2005. An FIR bearing No.228 dated 26.11.2005 was registered for offences under Sections 279, 337, 427 IPC and Section 304-A IPC was added later on, on account of death of Amarjit Singh, at Police Station Sadar, Gurdaspur. The appellants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of the accidental death of Amarjit Singh, which has been accepted vide award dated 31.07.2008 and they have been granted compensation of Rs.2,46,800/-, in equal share, along with interest @ 9% per annum from the date of filing of the claim petition.

4. I have heard counsel for the parties and examined the salvaged record with their able assistance.

5. On the basis of the evidence adduced, the Tribunal has come to the conclusion that the accident took place on account of rash driving by respondent No.2 and Amarjit Singh succumbed due to the injuries sustained by him in the motor accident. Tribunal found that the offending vehicle was insured under policy, Ex.R-1, and respondent No.2, who was driving the vehicle, did not possess a valid driving license. While accepting the claim petition and granting compensation, the Tribunal granted liberty to the Insurance Company-respondent No.3 to recover the awarded amount from respondent No.2.

6. On the basis of a salary certificate, Ex.A-25, it stood established that



FAO-5265-2008

-3-

the deceased was drawing monthly salary of Rs.11,100/-. He was also getting pension of Rs. 2750/- per month, which after the death of Amarjit Singh was being drawn by his wife. The deceased was 57 years of age and after making a deduction of $\frac{1}{3}^{\text{rd}}$ amount for his personal expenses, the Tribunal applied a multiplier of 9 and assessed the compensation amount at Rs.1,96,800/-. An amount of Rs.50,000/- spent on medical treatment vide bills, Ex.A-3 to A-24, was also granted to the claimants.

7. The amount of compensation awarded by the Tribunal deserves to be enhanced as the Tribunal has not passed any award regarding the future prospects, nor has it granted any compensation on account of loss of estate, funeral expenses or loss of consortium. Pension drawn by the deceased has to be included in the compensation. By including these amounts, the compensation payable to the appellants works out as under:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income (salary and pension)	Rs.13,850/-
2	Future prospects	Rs.2077 (15% of Rs.13,850/-)
3	Deduction towards personal expenditure $\frac{1}{3}^{\text{rd}}$	Rs.4616 (Rs.13850/- X $\frac{1}{3}^{\text{rd}}$)
4	Total Monthly Income	Rs.11311/- (Rs.15,927/- - Rs.4616/-)
5	Multiplier	9
6	Annual dependency	Rs.12,21,588/- (Rs.11311/- X 12 X 9)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium Parental - Rs.48,000/- Spouse - Rs.48,000/-	Rs.96,000/-
10	Medical expenses as per bills	Rs.50,000/-
11	Total compensation	Rs.14,03,588/-
12	Less: Award by MACT	Rs.2,46,800/-
13	Enhancement	Rs.11,56,788/-

**FAO-5265-2008****-4-**

8. Accordingly, the appellants are held to an additional compensation of Rs.11,56,788/-, which shall be payable to the appellants with interest at the rate of 6% per annum from the date of the filing of the claim petition. The Insurance Company-respondent No.3 shall be entitled to recover the awarded amount from respondent No.2. Impugned award is modified accordingly.

9. Appeal is disposed off.

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

(SUVIR SEHGAL)
JUDGE

07.01.2025

Kamal

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