IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3247-2010 (O&M)
Date of Decision: November 10, 2025

Kamlesh and others
...Appellants

VERSUS

Chand Singh and others
...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Lakshya Saini, Advocate for Mr.Gurinder Pal Singh, Advocate for the appellants.

Mr.Rohit Kataria, Advocate for Ms.Anamika Mehra, Advocate for respondent No.3.

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ARCHANA PURI, J.

The appellants-claimants have questioned the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Surender @ Sunder, in a motor vehicular accident.

The accident had taken place on 27.06.2007. On appraisal of the evidence, brought on record, it was held by learned Tribunal that the accident had taken place, due to rash and negligent driving of dumper bearing registration No.HR-63A-5054, driven by respondent No.1-Chand Singh. While considering deceased Surender @ Sunder to be 25-26 years old and also taking him to be working as electrician, his earnings were taken as Rs.3600/- per month. 1/3rd was deducted, on the count of 'personal expenses' and 'loss of dependency' was worked upon as Rs.2400/- per month, annual whereof is Rs.28,800/-. Multiplier of '16' was applied and the compensation was worked upon as Rs.28,800x16=Rs.4,60,800/-. Besides the same, consolidated amount of Rs.10,000/- was awarded towards 'funeral', 'transportation', 'loss to the estate and consortium' etc. Thus, in total, Rs.4,70,800/- was awarded. The liability of the respondents to pay the compensation was held to be joint and several.

Being aggrieved, the appellants-claimants, who are widow and minor children of the deceased, have filed the present appeal to assail the adequacy of the compensation. However, Ram Dhan, father of the deceased, who was one of the claimants before learned Tribunal, has not joined the appellants, in the appeal in hand.

In pursuance of the notice issued, respondent No.3-insurance company made appearance through counsel and filed reply.

Learned counsel for the parties heard.

Be it noted that none of the respondents, upon whom the liability was fastened, have filed any appeal to assail the factum or manner of taking place of the accident or to assail the extent of compensation awarded. In these circumstances, there is no necessity to further dwell on these aspects.

So far as, the compensation awarded by the Tribunal, as detailed aforesaid, is concerned, the same do call for re-computation as per settled prevalent law.

It is categoric claim of the appellants-claimants about deceased to be 25 years old, at the time of accident and that he was working as electrician and earning Rs.6000/- per month. So far as, age of the deceased is concerned, learned Tribunal has very appropriately considered age of deceased Surender @ Sunder as 25-26 years. Even, from the evidence, brought on record, it stands established that deceased was working as electrician. The widow of the deceased herself stepped into witness box as PW-1 and in her affidavit, she has deposed the source of livelihood of the deceased. Furthermore, PW-4 Trilok Singh has been examined by the claimants, who is a contractor. He categorically deposed that deceased was working as electrician with him and he was paying a sum of Rs.6000-Rs.6500/- per month as salary to the deceased.

Very true, as observed in the Award, there is no record relating to the employment, as such, coming forth and about the extent of salary paid by PW-4 Trilok Singh to the deceased. In fact, there is no document coming forth, with regard to the disbursement of salaries by this witness to his workers. Even if, it is so taken, then also, the extent of earnings taken by learned Tribunal is on lesser side. Learned Tribunal had assessed the earnings of the deceased by adopting minimum wages for the skilled workers, at the relevant time. However, it is pertinent to mention that minimum wages notification can only considered as yardstick but, not all the time, it can be considered to be absolute one to fix the income of the deceased. In the absence of documentary evidence, coming on record, with regard to the extent of earnings of the deceased, some amount of guess work is required to be done. But at the same time, the guess work for assessing the income of the deceased, should not be totally detached from the reality. Merely because the claimants were unable to produce the documentary evidence, the same does not, *ipso facto*, justify adoption of lowest tier of minimum wages, while computing the income. There is no reason to discard the oral testimony of the wife of the deceased, who has deposed about her husband to be working as electrician.

Even, PW-4 Trilok Singh, employer of the deceased, has been examined. Though, he has not brought on record, any document relating to the employment and disbursement of the salary to the deceased, but however, it is pertinent to mention that it is common knowledge about such employment being made orally and disbursement of the salaries also being done without any document. However, at the same time, it ought to be kept in mind that there is an attempt made, on the part of the claimants also, at times, to show exaggerated earnings of the deceased, with the purpose to seek more compensation. Even if, Rs.3600/- per month is taken by learned Tribunal as earnings of the deceased, on the basis of the minimum wages, but at the same time, also it ought to be considered that deceased was a skilled worker. One must not lose sight of the fact that there is always dearth of the skilled workers and any person, who has a skill in his hand, generally makes an attempt to improve his extent of earnings. He is bound to be working and fetching work, according to his skill and earn added amount, apart from the salary. Considering the same, in modest estimate, the earnings of the deceased, in the minimum, can be taken as Rs.4,000/- per month, annual whereof is Rs.48,000/-.

Taking it to be so, also it is pertinent to mention that number of dependents, in the given case was four and therefore, deduction made to the extent of 1/3rd, on the count of 'personal expenses' is on higher side. As per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the deduction, on the count of 'personal expenses' has to be made to the extent of 1/4th. Considering the age of the deceased, as per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition on the count of 'future prospects', has also to be made to the extent of 40% and multiplier of '17' has to be applied, instead of '16' as applied by the Tribunal.

Besides the aforesaid, on the count of 'loss of consortium', be it 'filial', 'spousal' or 'parental', the claimants are entitled to Rs.48,400/- each and they are also entitled to compensation on the counts of 'loss of estate' and 'funeral expenses' to the extent of Rs.18,150/- on each count.

Even though, father of the deceased, as such, has not filed any appeal for enhancement or joined the appellants-claimants in the appeal in hand, but the fact remains that considering the father to be dependent, he was awarded compensation by the Tribunal and thus, he is also entitled to the share of enhanced compensation, as now to be awarded to the claimants.

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

Annual earnings	Rs.48,000/-
Deduction of 1/4th	Rs.48000-12000=Rs.36,000/-
Addition of 40%	Rs.36000+14400=Rs.50,400/-
Multiplier of '17'	Rs.50,400x17=**Rs.8,56,800/-**
Loss of consortium	Rs.48,400x4=**Rs.1,93,600/-**
Loss of estate	**Rs.18,150/-**
Funeral expenses	**Rs.18,150/-**
Total	**Rs.10,86,700/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.10,86,700-**

4,70,800=Rs.6,15,900/-. On the enhanced amount of the compensation i.e. **Rs.6,15,900/-**, the appellants-claimants including Ram Dhan, father of the deceased, 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 amount of total compensation, as now worked upon, appellant-claimant No.1 is held entitled to **Rs.2,50,000/-**, whereas, appellants-claimants No.2 and 3 are held entitled to **Rs.1,50,000/-** each and Ram Dhan, father of the deceased is held entitled to the compensation of **Rs.65,900/-**. Any amount, earlier disbursed to the claimants, in consonance with the terms of the Award passed by the learned Tribunal, shall be adjusted accordingly.

The impugned Award dated 04.09.2009 stands modified, to the extent, as indicated aforesaid. The liability of the respondents shall remain joint and several to pay the compensation, as now worked upon. The Tribunal shall initiate process of disbursement of the compensation, as now worked upon, not only to the appellants i.e. widow and children of the deceased, but also, vis-a-vis, father of the deceased, who has not joined the proceedings.

With the above observations, the present appeal stands allowed.

November 10, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**