IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-199-2008 (O&M)
Reserved on: 09.09.2025
Pronounced on: 23.09.2025

PALWINDER KAUR AND ORS. **….Appellants**

Vs.

NAURANG SINGH AND ORS. **…..Respondents**

CORAM: ***HON'BLE MR. JUSTICE HARKESH MANUJA***

Present: Mr. Lovish Arora, Advocate for
Mr. S.K. Arora, Advocate
for the appellants/claimant No. 1 to 5.

Mr. Gunjan Mehta, Addl. A.G. Punjab
for contesting respondent No. 2 & 3.

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HARKESH MANUJA, J.

CM No. 1232 of 2008

1. Prayer in the present application moved on behalf of the applicants-appellants, is for condonation of delay of 200 days in filing the appeal.

2. Notice of the application.

3. Learned State counsel appearing on behalf of contesting respondent No. 2 & 3 accepts notice and objects to the prayer made in the application, however, waives filing of reply.

4. In view of the above, considering the averments made in the application, which is duly supported by an affidavit sufficient cause is made out. Accordingly, the application is allowed and the delay of 200 days in filing the present appeal is condoned.

Main Case

[1]. By way of present appeal, challenge has been laid to an award dated 06.01.2007 passed by the learned Motor Accident Claims Tribunal, Faridkot (hereinafter to be referred as "the Tribunal"), whereby an amount of Rs. 4,13,000/- as compensation was awarded to the appellants/claimants along with interest @ 6% per annum.

Brief Facts

[2]. A claim petition came to be filed before the Ld. Tribunal, praying for grant of compensation to the tune of Rs. 7,00,000/- (Rupees seven lakhs only) on account of death of Santokh Singh in a vehicular accident which took place on 05.09.2004 while alleging rash and negligent driving of respondent No. 1-driver.

[3]. Learned Tribunal after appraisal of evidence on record held that the accident occurred due to rash and negligent driving of respondent No.1/driver and after assessing income of deceased @ Rs. 3,000/- per month while working as a Ragi (Preacher) in a Gurudwara and making deduction of 1/3rd towards his personal expenses, awarded compensation in the following manner:-

S.No.	Heads of Claim	Amount (in Rs.)
1.	Compensation (Total Dependency)	4,08,000/-
2.	Funeral Expenses	2,000/-
3.	Loss of Consortium	3,000/-
	Total	4,13,000/-

Further, liability was jointly and severally fastened upon the respondents and the compensation amount was ordered to be disbursed in the following manner:-

Claimant No.1 (widow of deceased) (40% of Rs. 4,13,000).	Rs. 1,65,200/-
Claimant No. 2(minor daughter of deceased) (15% of Rs. 4,13,000/-)	Rs. 61,950/-
Claimant No. 3 (minor son of deceased) (15% of Rs. 4,13,000)	Rs. 61,950/-
Claimant No. 4 (father of deceased) (15% of Rs. 4,13,000)	Rs. 61,950/-
Claimant No. 5 (mother of deceased) (15% of Rs. 4,13,000)	Rs. 61,950/-

[4]. Being aggrieved of the award dated 06.01.2007, the present appeal was preferred by the appellant/claimants for enhancement of compensation. Facts, as specified in the claim petition, about the manner of accident and the issue regarding negligence of the driver recorded in favour of appellants/claimants by the Ld. Tribunal, been not assailed, are not being repeated here for the sake of brevity.

Arguments

[5]. Learned Counsel for the appellant assailed the award while submitting that earning of the deceased, was to the tune of Rs. 11,000/- per month as he was working as a Ragi (Preacher) in a gurudwara and also used to take agricultural land on Theka besides maintaining buffaloes and selling milk. It was further submitted that the above fact was duly proved from the deposition of Surjit Singh (AW-7) which was not rebutted by the respondents by leading any evidence and therefore, Ld. Tribunal went wrong while having assessed monthly income @ Rs. 3,000/- per

month. Furthermore, it was submitted that deduction of 1/3rd towards self expenditure by the deceased was on the higher side besides funeral expenses and loss of consortium also been assessed on the lower side; also nothing was awarded under the head of loss of estate. Therefore, he prayed that the present appeal was liable to be allowed and the compensation be enhanced, as per latest exposition of law.

[6]. Per contra, learned State Counsel submitted that based on the evidence available on record, the appellants-claimants were awarded suitable compensation and as such the impugned award called for no interference and thus, prayed for dismissal of the appeal.

Discussion

[7]. I have heard learned counsel for the parties and perused the paper-book of the appeal as well. I find force in the arguments advanced by learned Counsel for the appellant/claimant.

Question of Income Assessed

[8]. In the present case, in view of the statements of Baba Inderpal Singh and Surjit Singh (father of deceased) while deposing as AW-3 and AW-7 respectively, it was proved on record that the deceased was working as Ragi (Preacher) in a Gurudwara and was getting Rs. 3,000/- per month, (Rs. 1,000/- per month as salary & Rs. 2,000/- per month as offerings from the people given to Gurudwara). It was also claimed that the deceased was earning Rs. 3,000/- per month by selling milk to Lakhbir Singh besides Rs. 5,000/- per month by taking agricultural land on Theka of Baljit Singh, although no documentary evidence to support the same was placed before the Ld. Tribunal in this regard. Accordingly, learned Tribunal,

assessed the monthly income of deceased @ Rs. 3,000/- per month equating it with that of a skilled labourer. However, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in strict sense is not required. The Hon'ble Supreme Court in case of ***"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."***, reported as ***(2022) 1 SCC 198,*** held that in absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

> *"…….In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month……"*

[8.1]. Keeping in view the facts and circumstances of the present case and also the deposition of AW3 and AW7, in the humble opinion of this Court, the notional income of the deceased is assessed @ Rs. 5,000/- per month.

[9]. The Hon'ble Supreme Court in the case of ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,"*** reported as ***2009(3) RCR (Civil) 77,*** was pleased to hold that in case the number of dependent family members were 2 to 3, 1/3rd would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under:-

> *"30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family member exceeds six."*

[9.1]. Considering the facts of the present case, the deceased had a large family to support, i.e. aged father and mother, wife and two minor children, therefore, he could not have afforded to spend 1/3rd amount of his income on himself. Therefore, learned Tribunal erred in deducting 1/3rd of his income towards personal expenses; which was required to be 1/4th in the case in hand.

Question of Compensation under Conventional Heads

[10]. Furthermore, in view of the judgment of the Hon'ble Apex Court in ***Smt. Sarla Verma's case (supra)***, ***"National Insurance Co. Ltd. vs. Pranay Sethi and others"*** reported as ***(2017) 16 SCC 680*** and ***"United India Insurance Co.Ltd.***

vs. Satinder Kaur", reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs. 3,84,000/- (Rs. 48,000 x 8) as the appellants/proforma respondents, being spouse, children and siblings of deceased are also entitled for spousal, parental, filial and siblings consortium.

[11]. Now, the question arises how the compensation is to be distributed among the legal heirs. In this regard it may be taken into account that from the material available on record it is evident that appellant No. 1 (widow of deceased) did not remarry and she besides her minor children were solely dependent upon the deceased, accordingly appellant No. 1 is held entitled for 60% of the compensation amount, whereas appellant Nos. 2, 3 & 5 be granted the remaining 40% in equal share. It may be clarified here that the aforementioned ratio of 60:40 would be minus the consortium as all the appellants/claimants shall separately/individually be entitled for consortium as all the claimants/appellants as well as proforma respondents shall separately/individually be entitled for consortium in their favour.

Conclusion

[12]. In view of the discussion made herein above, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Annual Income of Deceased	Rs. 60,000/-
2.	Add 40% Future Prospects	Rs. 24,000/-
3.	Total Income (Rs. 60,000 + Rs. 24,000)	Rs. 84,000/-
4.	Deduction (1/4th)	Rs. 21,000/-
5.	Net Income (Rs. 84,000 – Rs. 21,000)	Rs. 63,000/-

6.	Loss of Income after applying multiplier of 16 as per age of 31 years (63,000 x 16)	Rs. 10,08,000/-
7.	Funeral Expenses	Rs. 18,000/-
8.	Loss of Estate	Rs. 18,000/-
	Total Compensation	**Rs. 10,44,000/-**
	Amount Awarded by the Tribunal	**Rs. 4,13,000/-**
	Enhanced Compensation	**Rs. 6,31,000/-**

Thus, the appellant No.1/widow is entitled for Rs. 3,78,600/- and appellant No. 2, 3 and 5 i.e. minor children and mother of deceased are entitled for Rs. 2,52,400/- as compensation.

[13]. Similarly, the appellants/claimants shall be entitled for following amount of compensation as consortium:-

S.No.	**Name/Appellants No.**	**Consortium Amount**
1.	Palwinder Kaur (widow)	Rs. 48,000/-
2.	Navpreet Kaur (minor daughter)	Rs. 48,000/-
3.	Harjinder Kaur (minor son)	Rs. 48,000/-
4.	Surjit Singh (father of deceased)	Rs. 48,000/-
5.	Harpal Kaur (mother of deceased)	Rs. 48,000/-
6.	Kulwinder Singh (brother of deceased)	Rs. 48,000/-
7.	Raveen Kaur (sister of deceased)	Rs. 48,000/-
8.	Lakhvir Kaur (sister of deceased)	Rs. 48,000/-

[14]. The grant of interest @ 6% per annum is not equitable and just in view of the observation made by the Hon'ble Supreme Court in ***Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513*** approved in a subsequent judgment titled as ***Puttamma and others Vs. K.L. Naryana Reddy and another, 2014 (1) RCR (Civil) 443,*** thus, the interest is

enhanced to 9% per annum on the amount of compensation awarded to the claimant from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

[15]. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s) if any, shall also stand disposed of.

September 23, 2025 **(HARKESH MANUJA)**
sonika **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No