

**FAO-6737-2011 (O&M)****-1-**

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

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FAO-6737-2011 (O&M)
Date of Decision:14.02.2025

Kitabo and another**... Appellants****V/S****Surajbir and others****.... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Kulvir Narwal, Advocate with
Ms. Geetanjali Bhatia, Advocate for the appellants.

Mr. Punit Jain, Advocate for
respondent No.3-ICICI Lombard.

*********SUVIR SEHGAL, J. (ORAL)**

1. Instant appeal has been filed under the Motor Vehicles Act, 1988 (for brevity "MV Act") by the legal representatives of Hari Om-deceased. Appellants have sought enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short "the Tribunal"), Rohtak, vide award dated 11.06.2011.

2. Facts leading to the filing of the appeal are that on 17.08.2010, the deceased, Hari Om and his sister, Seema, both students of Chhotu Ram Polytechnic, Rohtak were travelling on a Haryana Roadways bus bearing registration No. HR-46-B/7261. Seema was seated adjacent to the window while Hari Om was standing. The bus driver-Respondent No. 1, who was rashly driving the bus, suddenly



turned the vehicle, which caused the bus door to open. Hari Om fell out of the bus and got run over by the rear tyre of the bus. He was taken to Post Graduate Institute of Medical Sciences, Rohtak, where he died due to injuries. An FIR, Ex.P4 bearing No.346, dated 17.08.2010 was lodged under Sections 279, 304-A IPC at Police Station, Sampla at the instance of Daya Nand, father of Hari Om. Appellants filed a claim petition under Section 166 of MV Act claiming compensation on account of the accidental death of Hari Om, which has been partly accepted vide award dated 11.06.2011 and they have been granted compensation of Rs.2,75,000/-. Respondents have been held jointly and severally liable to pay the amount, along with interest @ 6% 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, Tribunal has come to the conclusion that the accident took place on account of rash and negligent driving by respondent No.1 and Hari Om died in the motor vehicle accident. Tribunal found that Respondent No.1 had a valid drivers license and offending vehicle was fully insured under insurance policy Ex.R2.

5. Compensation was assessed by relying on the judgment in **Ravinder Kaur & another Versus Roop Lal & others, (2008) ACJ 624**, wherein Rs.2 lakhs was awarded for the death of a 4-year-old child. As the deceased was 17 years old and a student with no earnings at the time of his death, Tribunal awarded a lump sum amount of Rs.2,75,000/- to



the petitioners, which is on a lower side. In Santosh Kumari & others Versus Purshotam Singh & others, 2015 (2) ACC 788, this Court considered the notional income of a 2nd-year student pursuing a 3-year Diploma in Electrical Engineering as Rs.7,000/- per month. Therefore, in the present case, the notional income of the deceased should be taken as Rs.7,000/- per month. As the deceased was a bachelor, a deduction of ½ has to be made towards personal expenses from the monthly notional income, and a multiplier of 18 deserves to be applied, keeping in view the age of the deceased. Tribunal has neither considered future prospects of the deceased nor awarded any amount under the conventional heads.

6. In the light of the principles laid down by the Supreme Court in Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 read with Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130, claimants are entitled to award under conventional heads, for future prospects, etc. The court is of the view that head-wise various computation of compensation deserves to be modified as below:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.7,000/-
2	Deduction towards personal expenditure 1/2	Rs.3,500/-(Rs.7,000/-x1/2)
3	Future prospects	Rs.1,400/-(40%of Rs.3,500/-)
4	Total Monthly Income	Rs.4,900/- (Rs.3,500/ +Rs.1,400/-)
5	Multiplier	18
6	Annual dependency	Rs.10,58,400/- (Rs.4,900/- x12x18)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-



9	Loss of consortium	Rs.96,000/- (Rs.48,000/- payable to each of two dependents)
10	Total compensation	Rs.11,90,400/-
11	Less: Award by MACT	Rs.2,75,000/-
12	Less: Interim compensation granted by this Court by order dated 11.02.2014	Rs.5,00,000/-
13	Enhancement	Rs.4,40,400/-

7. Accordingly, the appellants are held to an enhanced compensation of Rs.4,40,400/-, which shall be payable by the respondents with interest at the rate of 6% per annum from the date of the filing of the claim petition. An amount of Rs.5,00,000/- was paid as interim relief pursuant to the order dated 11.02.2014 passed by this Court. Appellants shall also be entitled to interest at the rate of 6% on Rs. 5,00,000/- for the period from filing of the claim petition till the date of actual payment.

8. Appeal is disposed off.

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

14.02.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

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