

2025:PHHC:163540



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

FAO-5893-2012 (O&M)
Date of Decision: November 18, 2025

Gurdhian Singh and others

...Appellants

VERSUS

Gurpal Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Lal Singh Sidhu, Advocate
for the appellants.

Mr.R.C.Gupta, Advocate
for respondent No.2.

ARCHANA PURI, J.

Challenge in the present appeal to the judgment of dismissal of the claim petition filed to seek compensation qua death of Hardeep Kaur, in a motor vehicular accident.

On appraisal of the evidence brought on record, learned Tribunal had concluded about the accident to have never been caused, due to rash and negligent driving of Tata Sumo bearing registration No.HR-01J-8473, driven by respondent No.1-Gurpal Singh, which resulted into death of Hardeep Kaur and precisely, on this account, the claim petition was dismissed vide impugned judgment.

Being aggrieved with the dismissal of the claim petition, the

appellants-claimants have filed the present appeal.

Counsel for the parties heard.

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

That, on 02.07.2011, appellant-claimant No.3-Manpreet Singh was going with his mother Hardeep Kaur, towards village Salewala, on motorcycle. When they reached near village Mavi Kalan, then flock of buffaloes came on the road and Manpreet Singh applied brakes of his motorcycle, as a result whereof, Hardeep Kaur fell on the road on their side. Then, a Tata Sumo bearing registration No.HR-01J-8473, came from the opposite side, while being driven, in a rash and negligent manner and the driver of the said vehicle, struck Hardeep Kaur, who had fallen on the road and dragged her on the road, for some distance. It is categorical claim that the accident had taken place, on account of rash and negligent driving of Tata Sumo, being driven at a high speed. In the claim petition, also it was asserted that deceased Hardeep Kaur 38 years old and she was indulging in sale of milk and agricultural pursuit, besides taking care of household work and she was earning Rs.10,000/- per month.

Respondent No.1-Gurpal Singh, who was impleaded in the capacity of being driver-owner of Tata Sumo in question, had denied about taking place of the accident. In fact, he had taken the plea that neither he, nor his vehicle was present, at the spot, nor involved in the alleged accident and therefore, the accident was never caused due to rash and negligent driving of Tata Sumo by answering respondent, as alleged. Even, the insurance company denied about the accident.

Keeping in view the denial of the accident, as asserted aforesaid, the evidence, brought on record, ought to be taken into

consideration.

Appellant-claimant No.1-Gurdhian Singh himself stepped into witness box as AW-1 and deposed about death of his wife Hardeep Kaur, in the accident in question and further also deposed about vocation followed by her as well as earnings, as pleaded in the claim petition. AW-2 Dhanvir Singh, who was ex-Sarpanch of the village, also deposed about the death of Hardeep Kaur and also about Hardeep Kaur to be indulging in sale of milk and other agricultural pursuit as well as looking after the household work. Appellant-claimant No.3-Manpreet Singh, who was driving the ill-fated motorcycle, at the relevant time, had stepped into witness box as AW-3 and in his affidavit Ex.AW3/A, he had stated about the manner of taking place of the accident and had imputed rashness and negligence, on the part of respondent No.1-Gurpal Singh. Besides the same, documentary evidence, had also been led.

To rebut the aforesaid version, respondent No.1-Gurpal Singh, himself stepped into witness box as RW-1. In fact, he denied that the accident was caused by him. In his affidavit, he had asserted about the manner of taking place of the accident in paragraph No.3, which is reproduced, as herein given:-

“.....True facts are that when the motor cycle allegedly driven by Manpreet Singh struck with the flock of running Buffaloes who came across the road, with the result said motor cycle colluded with the Buffaloes & pillion rider fell down on the road from the moving motor cycle & with the result she died at the spot due to hitting hard the metalled road. The deponent who was stranger to the said area, was coming from Ghagga side, was illegally & wrongly involved in the alleged accident. In fact the said accident occurred due to the running of the

Buffaloes across the road & being hit with the motor cycle & not due to the driving of the deponent. The deponent or his Vehicle was neither present at the spot nor involved in the alleged accident. As such the accident in question was never caused due to the rash, negligent driving of TATA Sumo by deponent as alleged. There was no negligence of the deponent in the alleged accident.....”

Learned Tribunal, while appraising the evidence brought on record, had laid much emphasis upon AW-3 Manpreet Singh, to be less than 18 years of age and thus, was incompetent to drive the motorcycle and that he never had the driving licence, as admitted by him. May it be so, this fact, at the most, calls for imposition of penalty, as per the Motor Vehicles Act. Solely, on this account, there cannot be denial of compensation, on account of death of Hardeep Kaur. Learned Tribunal had also laid much emphasis upon no cross-examination having conducted qua manner of the accident as asserted by Gurpal Singh. Furthermore, it was also observed that the version given by the appellants-claimants is that Hardeep Kaur had fallen from the motorcycle on her side and the Tata Sumo came from the opposite side. If it be so, Tata Sumo could reach her (deceased), only after hitting the motorcycle and the buffaloes, which had come in front of the motorcycle. However, this was observed to be nobody's case and there is no evidence, available on the file, to show that either the motorcycle or any of the buffalo was hit by Tata Sumo.

In view of the same, it was concluded that the accident had never taken place, due to rash and negligent driving of the Tata Sumo, driven by respondent No.1-Gurpal Singh. However, this is presumptuous conclusion

drawn by learned Tribunal. Very true, in the claim petition, it is asserted that after the brakes were applied, Hardeep Kaur had fallen on her side. This in itself, does not mean that she had fallen on the left side. But even if it is so taken, the subsequent state of positioning of the vehicle and of the position of the fall, ought to be considered. In this regard, nothing, as such, has come on record that the motorcycle was stand-still, which made the Tribunal, to assume about the Tata Sumo, coming on the left side, to be striking Hardeep Kaur, only after striking the motorcycle and buffaloes.

In this regard, it is important to make reference to the FIR got registered by Manpreet Singh, soon after the accident, which was proved in evidence as Ex.A1. Close perusal of the same reveals that Manpreet Singh himself had got lodged FIR with promptitude and therein, he had stated about the manner of taking place of the accident. He stated about the buffaloes having come on the road and that he applied the brakes to save them, as a result of which, his mother fell down on the road. Immediately, after the same, he had stated that he had taken his motorcycle ahead. Then he stated about Tata Sumo bearing registration No.HR-01J-8473, while being driven at a high speed and rash and negligent manner, had come from the opposite side and driver had run over his mother and then, he had thrown his motorcycle and immediately had a look at his mother.

This FIR was got recorded with promptitude and precisely, on this account, it rules out chances of putting false version of the manner of taking place of the accident. Rather, from the contents of the FIR, it is evident that soon after his mother fell from the motorcycle, Manpreet Singh had taken his motorcycle ahead. The motorcycle never remained at the spot of accident. In the given circumstances, it cannot be stated that it was required

for Tata Sumo to have come on the opposite side and struck against the motorcycle, at first instance, before running over Hardeep Kaur. Thus, the observation so made by learned Tribunal is palpably erroneous.

Not only aforesaid, even though, the version of the accident is detailed by respondent No.1, in his affidavit, but however, in the reply, it is clear and specific taken by him that neither he nor his vehicle was present at the spot nor involved in the alleged accident. On this account, he had further taken the plea that the accident had never been caused, due to rash and negligent driving of the Tata Sumo. This assertion has also been reiterated by Gurpal Singh, in his affidavit Ex.RW1/A. If it be so, then the question arises, how did Gurpal Singh came to know about the manner of taking place of the accident, which he has narrated in his affidavit. Such being the state of affairs, the version now put forth, as concluded by learned Tribunal, as such, does not arise.

Thus, considering the aforesaid evidence, more particularly, statement of Manpreet Singh and the manner of accident, as stated by him as well as considering the plea raised by respondent No.1 and from the recitals of the FIR, it stands amply established about the accident to have taken place, due to rash and negligent driving of respondent No.1, while driving Tata Sumo bearing registration No.HR-01J-8473. Thus, the findings recorded by learned Tribunal on issue No.1, are hereby reversed.

Even though, issue No.1-, vis-a-vis, factum and manner of accident was decided against the appellants-claimants, even then, learned Tribunal had assessed the notional earnings of deceased Hardeep Kaur. Even though, it is pleaded case that deceased Hardeep Kaur was indulging in sale of milk and also used to follow agricultural pursuit as well as used to

render assistance in the household work and her income was stated to be Rs.10,000/- per month, but however, learned Tribunal had considered the deceased to be housewife and taking her to be so, her notional income was assessed as Rs.3,000/- per month, annual whereof is Rs.36,000/-. 1/3rd was deducted, on the count of 'personal expenses' and thus the loss of earnings were taken as Rs.24,000/-. Considering the age of deceased to be 38 years, multiplier of '15' was applied and the compensation was worked upon as Rs.3,60,000/- (Rs.24,000x15). Besides the aforesaid, another amount of Rs.5,000/- each was awarded on the counts of 'loss of estate' and 'funeral expenses' and thus, the total compensation was worked upon as Rs.3,70,000/-. Also, it was concluded that respondents would have been jointly and severally liable, to pay the aforesaid compensation.

However, as per the prevalent law, the compensation so worked upon, do call for re-computation.

Even though, there is assertion about indulgence of deceased Hardeep Kaur in sale of milk and agricultural pursuit and her monthly earnings is asserted to be Rs.10,000/- per month, but since there was no evidence, as such coming, considering the evidence brought on record, learned Tribunal had appropriately considered the deceased to be a housewife. However, her contribution or value of services towards the household, has been inappropriately considered as Rs.3,000/- per month.

It should always be kept in mind that the Motor Vehicles Act is a benevolent piece of legislation and the compensation awarded under the same ought to be 'just and reasonable'.

Time and again, it has been held by the Courts, that to determine the compensation for the services rendered by the homemaker to the house, is a

difficult task. There is no data for determination of compensation by following any straight jacket formula, but however, taking into consideration, the multifarious services rendered by the housewives for managing the entire family, the value of the services should be assessed and compensation be worked upon.

Beneficial reference is made to *Kirti and another v/s Oriental Insurance Company Ltd., 2021(2) SCC 166*, wherein, the Hon'ble Supreme Court, while considering the case of death of a homemaker, the following observations were made, as herein given:-

“32. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the Court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances.”

..... XX XXX XXX XX

“35. However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the Court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.

36. Whichever method a Court ultimately chooses to value the activities of a homemaker, would ultimately depend on the facts and circumstances of the case. The Court needs to keep in mind its duty to award just compensation, neither assessing the same conservatively, nor so liberally as to make it a bounty to claimants [National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680; Kajal v. Jagdish Chand, (2020) 4 SCC 413].”

Therein, it was also held that effects of inflation would equally be applied to the cases of assessment of notional income of the homemaker

and on this account, it was further held that the future prospects, also are required to be taken into consideration.

Thus, summing up, general observations were made regarding the issue of calculation of notional income for homemakers and grant of future prospects, with respect to them, for the purposes of grant of compensation, which was summarized, as follows:-

“a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation’s international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

In this backdrop, adverting to the case in hand, it is pertinent to mention that the accident had taken place in 2012. At the relevant time, the minimum wages of the un-skilled worker was Rs.4016/- per month. However, looking at the valuable services rendered by the housewife and also taking into consideration the loss of personal care and attention given by the deceased housewife to the children, as a mother and to her husband, as a wife, in any case, her services cannot be equated with that of skilled/un-

skilled worker.

Considering the same, amount of Rs.3,000/-, as taken by learned Tribunal, as notional earnings, is on lower side. Keeping in view the various multifarious duties rendered by deceased housewife, in modest estimate, the notional earnings, at the relevant time, can appropriately be taken as Rs.5,000/- per month. Taking it to be so, further determination of the compensation has to be worked upon.

Deceased Hardeep Kaur was 38 years old, at the relevant time. Considering her age, addition of 40% ought to be made, on the count of ‘future prospects’. Considering the number of dependents, deduction to the extent of 1/3rd, on the count of ‘personal expenses’, ought to be made, as done by learned Tribunal. The suitable multiplier, to be applied is ‘15’. Besides the aforesaid, on the count of ‘loss of consortium’, be it ‘filial’, ‘spousal’ or ‘parental’, the appellants-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.

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

Monthly income	Rs.5,000/-
Addition of 40%	Rs.5000+2000=Rs.7,000/-
Deduction of 1/3rd	Rs.7000-2333=Rs.4667/-, annual whereof is Rs.56,004/-
Multiplier of ‘15’	Rs.56,004x15=Rs.8,40,060/-
Loss of consortium	Rs.48,400x3=Rs.1,45,200/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Total	Rs.10,21,560/-

As such, the appellants-claimants are held entitled to the compensation to the extent of **Rs.10,21,560/-**. The amount of compensation shall be paid by respondents No.1 and 2, jointly and severally. On the amount of the compensation, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. Out of the compensation, as worked upon aforesaid, appellant-claimant No.1 is held entitled to **Rs.5,21,560/-**, whereas, appellants-claimants No.2 and 3 are held entitled to **Rs.2,50,000/-** each.

With the above observations, the present appeal stands allowed.

November 18, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No