



FAO-6008-2016 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-6008-2016 (O & M)
Date of decision:13.02.2025

GURDEEP SINGH

...APPELLANT

VS.

HIRA SINGH & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Satinder Khanna, Advocate
for the appellant.**Respondents No.1 to 3 have been proceeded
ex parte vide order dated 17.04.2023.**

None for respondent No.4.

SUVIR SEHGAL, J.

1. By way of present appeal filed under Section 173 of the Motor Vehicles Act, 1988, (for short “the Act”) the owner of the offending vehicle has approached this Court assailing award dated 02.05.2016 passed by the Motor Accident Claims Tribunal, Kapurthala (for short “the Tribunal”).

2. Mr. Satinder Khanna, counsel for the appellant has challenged the mode of computation of the future income of the deceased. Placing reliance upon the judgment in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (6) SCC 121** and **Bara Singh and others Vs. State of Punjab and others 2006 (21) RCR (Civil) 288**, he has urged that the future prospects of the deceased should have been determined by averaging and the Tribunal has erred in awarding an excessive amount as compensation.



3. I have considered the argument advanced by counsel for the appellant besides examining the paper-book with his able assistance.

4. Claimants/respondents No.1 to 3 filed a petition under Section 166 of the Act, claiming compensation on account of the death of Nirmal Kaur in a vehicular accident. It has been averred that on 21.11.2014, the deceased alongwith her husband, Hira Singh, were travelling on a motorcycle. A truck bearing No.PB-07-B-2745 rashly driven by Joginder Singh hit on the rear side of the motorcycle and both the motorcycle riders fell on the road. Nirmal Kaur was crushed under the wheel of the truck and died on the spot. Her husband received multiple injuries. They were being followed by Makhan Singh and Gurwinder Singh on a separate motorcycle. FIR No.320 dated 21.11.2014 was lodged under Sections 279, 337, 304-A and 427 of IPC at Police Station Kapurthala City. Petition was contested by the owner and driver of the offending vehicle by filing a joint reply, wherein they denied the allegation of rash driving.

5. In order to prove their case, claimants examined Hira Singh (PW-1), who deposed regarding the factum of the accident. Hira Singh was injured in the accident. He was the most natural and reliable witness. His testimony has remained unshaken in the cross-examination. Joginder Singh, driver of the offending vehicle, appeared in the witness-box, but could not deny that an FIR had been registered against him for rash driving and a criminal case was pending against him. In **Ravi Vs. Badri Narayan and others** (2011) 4 SCC 693, Supreme Court has held that registration of a criminal case goes a long way to establish that an accident had taken place and that in itself is sufficient to enable the claimants to file a petition for grant of compensation. Therefore, the finding recorded by the Tribunal regarding the death of Nirmal Kaur in a



motor accident caused by rash and negligent driving by Joginder Singh does not require any interference.

6. Insofar as quantum of compensation is concerned, the claimants produced the salary certificate (Ex.A4) of the deceased pertaining to month of October, 2014, to show that he was working as a Junior Clerk with Lala Lajpat Rai Hospital, Kapurthala, and was earning a monthly salary of Rs.24,962/-. The Tribunal deducted an amount of Rs.5104/- on account of the income tax liability of the deceased and made an additional 50% in his total income for future prospects. After applying a multiplier of 15, as the deceased was 39 years of age and holding that the claimants are entitled to loss of love and affection as well as funeral expenses, Tribunal awarded an amount of Rs.45,41,600/-. There is no question of averaging of the income of the deceased as has been argued by counsel for the appellant. This Court finds that the compensation has been worked out by the Tribunal on the basis of the principles laid down by the Supreme Court in *Smt. Sarla Verma’s case* (supra), which has been followed and clarified in National Insurance Company Limited Vs. Pranay Sethi (2017) 16 SCC 680 and Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others (2018) 18 SCC 130. The compensation awarded by the Tribunal is just and fair and does not call for any interference.

7. Appeal being devoid of merit, is dismissed with no order as to cost.

13.02.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No