IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(252)

FAO-3761-2017 (O&M)
& XOBJC-126-CII-2017
Date of decision:- 04.04.2025

United India Insurance Co. Ltd. ... Appellant

Versus

Kuldip Kaur and others ... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Suman Jain, Advocate and
Mr. Shubham Jain, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondents No.1 and 2 and for cross-objectors/claimants.

None for respondent No.3.

Respondent No.4 has been proceeded against ex-parte vide order dated 24.02.2023.

****

<u>SUVIR SEHGAL, J</u>. (*ORAL*)

1. This appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity, "MV Act") by the Insurance company, assailing award dated 31.01.2017, whereby a petition, preferred by claimants/respondents No.1 and 2, for grant of compensation on account of death of Harpreet Singh, has been partly accepted. Claimants have filed Cross-Objection No.126-CII-2017 seeking enhancement of compensation.

2. Facts, in brief, leading to the filing of the appeal are that on 06.06.2016, Harpreet Singh along with Dalvir Singh was travelling on a motorcycle bearing registration No. PB-65-AE-4191 from Kharar towards Gurudwara Sahib, Sohana. Dalvir Singh was driving the motorcycle at a high speed and Harpreet Singh was riding pillion. Dalvir Singh did not pay any heed to the requests of the deceased to drive slowly. When they reached airport road, an unidentified vehicle going in front of them suddenly applied brakes due to which motorcycle rammed into the vehicle from behind. Due to the collision, Harpreet Singh fell on the road and suffered head injury. He was taken to Max Hospital, Mohali, where he succumbed to his injuries. An FIR No.59 dated 08.06.2016, Ex.R-4, was lodged under Sections 279 and 304-A, IPC at Police Station Balongi, District S.A.S. Nagar. Claimants filed a petition under MV Act for grant of compensation on account of death of Harpreet Singh, which has been partly accepted vide impugned award and they have been granted compensation of Rs.11,52,800/-. The owner and driver of the motorcycle as well as the insurance company have been held liable to pay the compensation, alongwith interest at the rate of 7.5% 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 statement of Ramandeep Singh, PW-2, and eye witness, who was travelling on a motorcycle, Tribunal came to the conclusion that the accident has taken place due to composite negligence of Dalvir Singh and the driver of the unidentified vehicle mentioned in FIR, Ex.R-4. Mere fact

that the name of Ramandeep Singh is not mentioned in the FIR is not a ground to doubt his testimony. FIR is not an encyclopedia, which must disclose all the facts of the incident, including the names of the culprits and the eye witnesses. Placing reliance upon the judgment of this Court in ***The Oriental Insurance Company Limited Versus Smt. Indro @ Indro Devi and others, 2016 (1) PLR 730***, Tribunal has found that the motorcycle is covered under a package policy, Ex.R-6, that covers the risk of a pillion rider in a motorcycle accident. It could not be disputed that Dalvir Singh possessed a valid driving license, Ex.R-3, and the postmortem report, Ex.P-2, of Harpreet Singh shows that the death has occurred due to the injuries sustained in a road accident. Tribunal has, therefore, rightly come to the conclusion under Issue No.1 that the death had taken place in a road accident.

5. Tribunal has assessed the compensation by assuming the income of the deceased, who was 18 year old and working as a clerk with Mr. Manjit Singh, Advocate, PW-3, District Courts, Kharar. In his deposition, Mr. Manjit Singh, Advocate has categorically stated that besides a monthly salary of Rs.7,000/-, deceased was earning Rs.3,000/- to Rs.4,000/- per month from his clients as charges for getting the certified copies of the documents as well as miscellaneous expenses. The statement of Mr. Manjit Singh, Advocate has to be accepted in the absence of any material to doubt it. In ***Parminder Singh Versus New India Assurance Co. Ltd. and others, (2019) 7 SCC 217***, Supreme Court assessed the income of the deceased on the basis of the affidavit of the employer. This Court, therefore, unhesitatingly holds that the deceased was earning Rs.10,000/-, which has to be taken as his monthly

income. Tribunal has applied a multiplier of 18 keeping in view the age of the deceased at the time of the accident and has deducted ½ of his income towards his personal expenses as he was a bachelor. These figures do not require any alteration as per the legal position settled in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, *(2009) 6 SCC 121.*** However, the award of future prospects at 50% deserves to be scaled down to 40% in view of the judicial precedents.

6. In the light of the principles laid down by the Supreme Court in ***Smt. Sarla Verma's Case* (supra), *National Insurance Company Ltd. Versus Parnay Sethi*, (2017)16 SCC 680** and ***Magma General Insurance Company Ltd. Versus Nanu Ram @ Chuhru Ram and others*, (2018) 18 SCC 130,** claimants are entitled to award under conventional heads, for future prospects etc. This 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.10,000/-
2	Deduction towards personal expenditure (1/2)	Rs.5,000/- (Rs.10,000/- x 1/2)
3	Future prospects	Rs.2,000/- (40% of Rs.5,000/-)
4	Total Monthly Income	Rs.7,000/- (Rs.5,000/- + Rs.2,000/-)
5	Multiplier	18
6	Annual dependency	Rs.15,12,000/- (Rs.7,000/- x 12 x 18)
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 the two dependants)

10	Total compensation	Rs.16,44,000/-
11	Less: Award by MACT	Rs.11,52,800/-
12	Enhancement	Rs.4,91,200/-

7. Accordingly, the claimants are entitled to additional compensation of Rs.4,91,200/-, which shall be payable with interest at the rate of 7.5% per annum from the date of the filing of the claim petition.

8. Appeal and cross-objections are disposed off.

9. Pending applications, if any, are also disposed off.

(SUVIR SEHGAL)
JUDGE

04.04.2025
Kamal

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