IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

232-1. **FAO-4281-2017**
Date of decision:15.02.2025

HARPREET KAUR & ORS. ...APPELLANTS

VS.

TEJJI SINGH & ANR ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Tarun Vir Singh Lehal, Advocate
for the appellants.

Service of respondent No.1 was ordered to be dispensed with by this Court vide order dated 16.02.2023.

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SUVIR SEHGAL, J.

1. Instant appeal filed under section 173 of the Motor Vehicles Act, 1988 (for brevity “MV Act”) by the legal representatives of Sudhir Kumar- deceased. Appellants have sought enhancement of compensation granted by the Motor Accident Claims Tribunal (for short “the Tribunal”), Ropar vide award dated 13.01.2017.

2. Facts, in brief, leading to the filing of the appeal are that on 06.06.2015, Sudhir Kumar and his cousin, Balwinder Kumar were travelling separately on their motorcycles. Sudhir Kumar met his friend, Devinder Singh, on the way and gave him a lift. When they reached near NFL Factory Chowk, Nangal, a Mahindra Bolero Jeep bearing registration no.PB-03-T-8386 which was being carelessly driven by Tejji Singh- respondent No.1 struck against the motorcycle of Sudhir Singh. Both the motorcyclists fell on the road and sustained grievous injuries. They were rushed to the BBMB

Hospital, Nangal where they were declared as brought dead. An FIR No.67 dated 06.06.2015, Ex.P-8, was lodged under section 279, 304-A IPC at Police Station Nangal. Appellants filed a claim petition under Section 166 of the MV Act claiming compensation on account of death of Sudhir Kumar, which has been partly accepted vide award dated 13.01.2017 and they have been granted compensation of Rs.7,40,000/-. Respondents have been jointly and severally held liable to pay the compensation, along with interest @ 6% p.a., 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 of offending Jeep by respondent No.1, which resulted in the death of Sudhir Singh. Tejji Singh who was the driver of the offending vehicle did not appear before the Tribunal and was proceeded against ex-parte. Although, an insurance policy was produced by respondent No.2, but it was found to be fake and on an application filed by M/S Bajaj Allianz General Insurance Company, its name was deleted from the array of parties.

5. Compensation was assessed by assuming the income of the deceased, who was 23 years of age, as Rs.5,000/- p.m. Claimants lead evidence to the effect that deceased was selling lottery tickets, but his income could not be proved. Deceased has to be treated as a labourer for assessing his income. Minimum wage notified by the Government of Punjab for the year 2015 for unskilled labour was Rs.6,853/- p.m. So, the monthly income of the deceased has to be taken as Rs.6,853/-. The dependency of 1/3rd applied by the Tribunal towards personal expenses, deserves to be

accordingly reduced 1/4th as deceased had four dependents. Tribunal applied a multiplier of 18, keeping in view the age of the deceased, which does not require any alteration. Tribunal has awarded Rs.10,000/- each for funeral expenses and on the account of loss of consortium to the widow of the deceased, which has to be enhanced. However, Tribunal has not considered future prospects of the deceased.

6. In the light of the principles laid down by the Supreme Court in ***Smt. Sarla Verma and others verus Delhi Transport Corporation*** ***(2009) 6 SCC 121***, ***National Insurance Co. Ltd. v. Pranay Sethi***, ***(2017) 16 SCC 680*** and ***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. 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	Annual Income	Rs.82,236/-
2	Future prospects	Rs.32,894.40 (40% of Rs.82,236/-)
3	Deduction towards personal expenditure 1/4	Rs.1,15,130.40 x 1/4
4	Total Annual Income	Rs.86,347.80 (Rs.115130.40 subtract Rs.28,782.60)
5	Multiplier	18
6	Annual dependency	Rs.15,54,260.40 (Rs.86,347.80 x 18)
7	Loss of Consortium	Rs.1,92,000/- (48,000 x 4)
8	Funeral expenses	Rs.18,000/-
9	Loss of Estate	Rs.18,000/-
10	Total compensation	Rs.17,82,260.40
11	Less: Award by MACT	Rs.7,40,000/-
12	Enhancement	Rs.10,42,260.40

7. Accordingly, the appellants are entitled to an additional compensation of Rs.10,42,300/- (rounded off), which shall be payable to the appellants with interest at the rate of 7.5% per annum from the date of the filing of the claim petition.

8. Appeal is disposed off.

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

15.02.2025 **(SUVIR SEHGAL)**
sheetal **JUDGE**

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