



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) FAO-9646-2014 (O&M)

Neelam and others
...Appellants

VERSUS

Vikram Singh and others
...Respondents

(ii) FAO-9732-2014 (O&M)

Saroj Rani and others
...Appellants

VERSUS

Vikram Singh and others
...Respondents

(iii) FAO-1109-2015 (O&M)

Tilak Raj and others
...Appellants

VERSUS

Vikram Singh and others
...Respondents

Date of Decision: January 23, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Gaurav Khera, Advocate
 for the appellants.

 Mr.V.Ramswaroop, Advocate
 for respondent No.3

**ARCHANA PURI, J.**

These are three appeals, filed by the appellants-claimants, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, in three claim petitions, filed on account of deaths of Hunny, Kapil and Ghanshyam, in a motor vehicular accident, which took place on 15.12.2012.

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

That, on 15.12.2012, all the three deceased, namely, Hunny, Kapil and Ghanshyam, while on motor cycle bearing registration No.HR-26W-7025, had proceeded towards a hotel in village Kalanaur. The said motorcycle was driven by Kapil and Hunny as well as Ghanshyam were the pillion riders of the same. When they reached near Bhiwani-Kalanaur road, the truck bearing registration No.HR-07GA-4621, came from the opposite side, which was driven, in a rash and negligent manner by respondent No.1-Vikram and struck against the motorcycle of the deceased persons, as a result whereof, all the occupants of the motorcycle had sustained fatal injuries.

Thereupon, three claim petitions were filed separately, for seeking compensation, on account of deaths of Hunny, Kapil and Ghanshyam, in the accident in question.

On the basis of the evidence, brought on record, the three claim petitions were decided together vide impugned Award and compensation, on account of death of Kapil, was granted to the extent of Rs.5,71,000/-, whereas, compensation to the extent of Rs.5,21,000/- was granted, on account of death of Ghanshyam and qua the death of Hunny, compensation

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was granted to the extent of Rs.6,29,000/-. The liability was fastened upon the respondents, in the capacity of being driver, owner and insurer of the offending vehicle.

Feeling aggrieved, the claimants of all three claim petitions, have filed the appeals.

FAO-9646-2014 relates to the compensation awarded qua death of Hunny, whereas **FAO-9732-2014** relates to the compensation awarded qua death of Kapil and **FAO-1109-2015** relates to the compensation awarded qua death of Ghanshyam.

Learned counsel for the parties heard.

At the very outset, it is pertinent to mention that the factum and manner of taking place of the accident on 15.12.2012, on account of rash and negligent driving of the truck bearing registration No.RJ-07GA-4621, as concluded by learned Tribunal, has not been assailed by any of the respondents, upon whom, the liability was fastened. As such, there is no necessity, to further dwell upon these aspects.

Be it noted that, the appeals have been filed by the claimants only, for seeking enhancement of the compensation.

However, from the evidence, brought on record, it stands established that all the deceased, namely, Hunny, Kapil and Ghanshyam, fell in the age group of 18-25 years. This fact, as such, is also not disputed before this Court. Although, in the claim petitions, it was asserted about deceased Hunny to be employed as fruit vendor, deceased Kapil to be running a showroom of garments and deceased Ghanshyam to be doing the business of sale and purchase of detergent powder, but however, on account

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of scanty evidence, brought on record, learned Tribunal had appropriately discarded the assertions, with regard to the vocation followed by each of the deceased. However, while taking into consideration prevalent minimum wages for the unskilled worker, as existing at the relevant time, the earnings of all the deceased was taken as Rs.6000/- per month,

Furthermore, considering all the deceased to be bachelor, deduction to the extent of 50%, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, and further, while making assessment of the compensation for the claimants, learned Tribunal, had considered the age of the claimants i.e. parents of each deceased, which as per the prevalent law, calls for re-determination.

However, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, it is the age of the deceased, which ought to be taken into consideration, for application of the appropriate multiplier.

Furthermore, learned Tribunal had granted Rs.1,00,000/- in all the three claim petitions, on the count of '**loss of love and affection**'. In this regard, it is pertinent to make reference to the decision rendered by the Hon'ble Supreme Court in *Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*, wherein, it is laid down that '**loss of love and affection is comprehended in loss of consortium**' and in this context, it was observed that there is no justification to award compensation towards '**loss of love and affection**', as a separate head, which view was further endorsed in '*United India Insurance Company Limited vs. Satinder Kaur Alias Satwinder Kaur and Others,*



(2021) 11 SCC 780’.

Besides the aforesaid, it is also pertinent to mention that qua the claim petitions of deaths of Kapil and Ghanshyam, learned Tribunal had awarded compensation only to the parents of the deceased. This has also been appropriately done by learned Tribunal, as respective fathers of both the deceased were alive and definitely, the siblings of aforesaid deceased are bound to be dependent upon their fathers, more particularly, when the fathers are of young age and bound to be forming part of the working force of the society. Considering the same, learned Tribunal had appropriately held brothers and sisters of deceased Kapil and Ghanshyam, to be not entitled to compensation. But anyhow, in the claim petition qua death of Hunny, learned Tribunal had rightly granted compensation to the mother and sister of the deceased and declined compensation to elder brother of the deceased, as the father of deceased Hunny, had already died.

Furthermore, on the count of ‘future prospects’, addition ought to be made, as held in *Pranay Sethi’s case (supra)*.

Thus, in the light of the aforesaid observations, the ‘work on’ of the compensation, as done by learned Tribunal do call for re-appraisal.

At the very outset, it is pertinent to mention that at the relevant time, the minimum wages for un-skilled worker was Rs.4967/- per month, which is now rounded off as Rs.5,000/- per month. As such, on this count, the extent of earnings of all the three deceased is scaled down from Rs.6000/- to Rs.5000/- per month. Thus, consequential ‘work on’ has to be made.

Firstly, let us consider the compensation to be granted qua death

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of Kapil. While taking the monthly earnings of deceased as Rs.5000/- and considering the marital status of the deceased, deduction to the extent of 50%, ought to be made on the count of 'personal expenses' and thus, the residue earnings comes to be Rs.2500/- per month. To the said amount, keeping in view the age of the deceased, as per *Pranay Sethi's case (supra)*, addition of 40%, ought to be made, on the count of 'future prospects' and thus, the earnings of deceased Kapil, comes to be $\text{Rs.}2500 + 1000(40\%) = \text{Rs.}3500/-$ per month, annual whereof, comes to be Rs.42,000/-.

Considering the age of deceased Kapil, as per *Sarla Verma's case (supra)*, the suitable multiplier to be applied is '18' and by applying the same, the loss is assessed as $\text{Rs.}42000 \times 18 = \text{Rs.}7,56,000/-$.

Besides the aforesaid, the parents of deceased Kapil are also held entitled to compensation, on the count of 'loss of consortium' as per *Magma's case (supra)*. Considering the grant of amount of Rs.40,000/-, as assessed in *Pranay Sethi's case (supra)*, which called for further enhancement to the extent of 10%, after every three years of pronouncement of the judgment, the amount payable, at present, works out to be Rs.48,400/- and therefore, the amount on this count, works out to be $\text{Rs.}48400 \times 2 = \text{Rs.}96,800/-$. Likewise, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Besides the aforesaid, the parents of deceased Kapil are also entitled to an amount of Rs.36,729/-, on the count of medical bills, duly proved before learned Tribunal, qua treatment undergone by deceased Kapil.



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Thus, the compensation worked upon qua death of Kapil, in the tabular form, is herein given:-

Loss of dependency	:	Rs.7,56,000/-
Loss of consortium	:	Rs.96,800/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Medical bills	:	Rs.36,729/-
Total	:	Rs.9,25,829/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be Rs.9,25,829-5,71,000=Rs.3,54,829/-.

On similar parameters, the ‘work on’ of the compensation, qua deceased Hunny and Ghanshyam, is re-computed, as herein given:-

Deceased Hunny

Sr.No.	Heads	Calculation
(i)	Salary/income	Rs.5000/- per month
(ii)	After deducting 50% as ‘personal expenses’ of the deceased	Rs.5000-2500=Rs.2500/-
(iii)	After adding 40% as ‘future prospects’, considering the age	Rs.2500+1000=Rs.3500/- annual Rs.42000/-
(iv)	Multiplier of ‘18’	Rs.42000x18=Rs.7,56,000/-
(v)	Loss of consortium	Rs.48,400x2=Rs.96,800/-
(vi)	Loss of Estate	Rs.18,150/-
(vii)	Funeral expenses	Rs.18,150/-
(viii)	Total	Rs.8,89,100/-
(ix)	Enhanced compensation after the deduction of compensation awarded by the Tribunal	Rs.8,89,100-6,29,000= Rs.2,60,100/-



Deceased Ghanshyam

Sr.No.	Heads	Calculation
(i)	Salary/income	Rs.5000/- per month
(ii)	After deducting 50% as 'personal expenses' of the deceased	Rs.5000-2500=Rs.2500/-
(iii)	After adding 40% as 'future prospects' considering the age	Rs.2500+1000=Rs.3500/- annual Rs.42000/-
(iv)	Multiplier of '18'	Rs.42000x18=Rs.7,56,000/-
(v)	Loss of consortium	Rs.48,400x2=Rs.96,800/-
(vi)	Loss of Estate	Rs.18,150/-
(vii)	Funeral expenses	Rs.18,150/-
(viii)	Total	Rs.8,89,100/-
(ix)	Enhanced compensation after the deduction of compensation awarded by the Tribunal	Rs.8,89,100-5,21,000= Rs.3,68,100/-

On the enhanced amount of the compensation, as now worked upon, in each case, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The enhanced amount of compensation, in FAOs-9732-2014 and 1109-2015, qua death of Kapil and Ghanshyam, be disbursed to the claimants, as ordered by learned Tribunal. However, in FAO-9646-2014, qua death of Hunny, out of the total compensation as now worked upon, i.e. Rs.8,89,100/-, appellant-claimant No.1-Neelam is held entitled to Rs.5,00,000/-, whereas, appellant-claimant No.3-Komal, is held entitled to residue amount of Rs.3,89,100/-. However, the compensation, if any, disbursed to aforesaid appellants-claimants, at any earlier stage, shall be adjusted accordingly.

Accordingly, the impugned Award dated 04.08.2014, stands modified, to the extent, as indicated aforesaid. The residue terms of the



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Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid all the appeals, stand allowed.

January 23, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No