IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2126-2004
Date of decision: 05.03.2026

Smt. Sabesh and others ...Appellants

Versus

Rajender Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. P.R. Yadav, Advocate for the appellants.

Mr. Sandeep Suri, Advocate
for respondent No.3-Insurance Company.

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DEEPAK GUPTA, J. (ORAL)

It is an appeal filed by the claimants seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal.

2. The brief facts necessary for disposal of the present appeal are that in a motor vehicular accident, which occurred on 11.06.1999, Mahender lost his life due to the rash and negligent driving of Bus No. HR-47-1464. The widow, two minor children and the parents of the deceased filed a claim petition under the Motor Vehicles Act seeking compensation from the driver, owner and insurer of the offending vehicle. Upon appreciation of the pleadings and evidence on record, the learned Tribunal vide award dated 09.06.2003 allowed the claim petition and awarded compensation of ₹3,12,400/- along with interest, holding the driver, owner and insurer of the offending vehicle jointly and severally liable to pay the said amount.

3. The claimants have preferred the present appeal seeking enhancement of the compensation. Learned counsel for the appellants submits that the income of the deceased has been assessed on the lower

side by the Tribunal. It is argued that since there were five dependents of the deceased, the deduction towards personal expenses ought to have been one-fourth instead of the deduction applied by the Tribunal. It is further contended that no addition towards future prospects has been made while calculating the loss of dependency and that the compensation awarded under the conventional heads is also inadequate. Learned counsel further submits that the deceased was working as a driver and was earning ₹2,500/- per month as salary and was also contributing towards agricultural work, thereby earning a total sum of ₹6,500/- per month. However, the Tribunal has taken into consideration only ₹2,100/- per month as the income of the deceased.

4. Learned counsel appearing for the insurance company does not seriously dispute that the compensation is liable to be reassessed in accordance with the principles laid down by the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(4) RCR (Civil) 1009; Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121; and Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram and others, 2018 (4) RCR (Civil) 333.*** However, it is submitted that the Tribunal has assessed the income of the deceased on the basis of the evidence available on record and therefore the same should not be substantially interfered with.

5. Having heard learned counsel for the parties and after perusing the record, this Court finds that the widow of the deceased, Smt. Sabesh, appeared as a witness and deposed that her husband Mahender was about 28 years of age and was working as a driver by profession. According to her testimony, he used to drive the truck belonging to Mamraj and was receiving a salary of ₹2,500/- per month. This version is duly corroborated

by PW4 Mamraj, the owner of the truck. Merely because PW4 was not maintaining any written record regarding payment of salary cannot be a ground to discard his testimony, particularly when it has not been disputed that the deceased was a professional truck driver. In these circumstances, the income of the deceased deserves to be assessed at ₹2,500/- per month instead of ₹2,100/- as taken by the Tribunal.

6. As regards the claim of additional income from agricultural activities, the evidence on record shows that the agricultural land stood in the name of the father of the deceased. The land continues to remain with the family and there is no reliable evidence to establish that the deceased was exclusively managing or deriving separate income from the said agricultural land. In the absence of cogent proof, the Tribunal rightly declined to add any amount towards agricultural income and this Court finds no reason to take a different view.

7. Once the monthly income of the deceased is determined at ₹2,500/- and the age of the deceased at the time of death is 28 years, the compensation is required to be recalculated in accordance with the settled principles laid down by the Hon'ble Supreme Court. In terms of the judgment in ***Pranay Sethi***, an addition of 40% towards future prospects is required to be made as the deceased was below the age of 40 years. Further, since there were five dependents of the deceased, the appropriate deduction towards personal and living expenses would be one-fourth, as held in ***Sarla Verma***. For a person aged 28 years, the appropriate multiplier is 17.

8. Accordingly, the loss of dependency is reworked as under:

- Monthly income : ₹2,500/-

  Annual income : ₹30,000/-

After adding 40% towards future prospects : ₹42,000/-

Deduction of 1/4th towards personal expenses : ₹10,500/-

Annual loss of dependency : ₹31,500/-

- Applying multiplier of 17:
- Loss of dependency = ₹31,500 × 17 = ₹5,35,500/-

9. Apart from the loss of dependency, the claimants are also entitled to compensation under the conventional heads. Although the principles regarding consortium were elaborately discussed in ***Pranay Sethi & Magma General Insurance Co. Ltd. v. Nanu Ram***, keeping in view the fact that the accident occurred long back in the year 1999, the amount is required to be assessed keeping in view the parameters applicable at the relevant time.

10. Accordingly, compensation of ₹20,000/- each is awarded towards loss of spousal, parental and filial consortium to the five claimants, totaling ₹1,00,000/-. A further sum of ₹10,000/- each is awarded towards loss of estate and funeral expenses.

11. Thus, the total compensation payable works out as follows:

- Loss of dependency : ₹5,35,500/-
- Loss of consortium (5 × ₹20,000) : ₹1,00,000/-
- Loss of estate : ₹10,000/-
- Funeral expenses : ₹10,000/-
- **Total compensation : ₹6,55,500/-**

12. The Tribunal had awarded a sum of ₹3,12,400/-. After deducting the said amount, the enhanced compensation payable to the claimants works out to ₹3,43,100/-. The said enhanced amount shall be payable to the appellants–claimants along with interest @ 7.5% per annum from the date of filing of the claim petition till its realization. The amount

shall be apportioned amongst the claimants in the same proportion as determined by the learned Tribunal.

13. The liability of the respondents shall remain joint and several. The directions issued by the Tribunal regarding liability of the insurance company shall remain unaltered.

14. With the aforesaid modification in the quantum of compensation, the present appeal stands disposed of.

05.03.2026 **(DEEPAK GUPTA)**
Yogesh **JUDGE**

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No