129 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

FAO-2417-2024 (O&M)
Date of decision : 08.04.2026

SANDEEP KAUR AND ANOTHER

....Appellants

Versus

AMIR JHA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Dinesh Nagar, Advocate, Ms. Vibha Nagar, Advocate and Mr. Ashish Nagar, Advocate for the appellants.

Mr. Ajay S. Dhiman, Advocate for respondent No.2.

Mr. Shashi Kumar Yadav, Advocate for respondent No.3.

PANKAJ JAIN, J. (ORAL)

1. The present appeal has been preferred by the claimants seeking enhancement of compensation awarded vide award dated 05.01.2024, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur in a petition filed under Section 166 of the Motor Vehicles Act, on account of death of Gurmeet Singh in a motor vehicular accident.

2. The brief facts necessary for the present appeal are that on 25.05.2022, the deceased Gurmeet Singh met with a motor vehicular accident caused due to rash and negligent driving of the offending vehicle bearing registration No. PB-10-HE-6412, which resulted in fatal injuries to him.

3. The learned Tribunal returned a finding that the accident in question had occurred due to rash and negligent driving of the offending vehicle by respondent No.1. Consequently, the claim petition was partly allowed and compensation to the tune of Rs.38,28,150/- was awarded in favour of the claimants along with interest.

4. The claimants are now seeking enhancement of compensation on the ground that the learned Tribunal has erred in assessing the income of the deceased by taking the average of income declared in three Income Tax Returns, instead of taking into consideration the income reflected in the latest Income Tax Return, which was the most proximate to the date of accident.

5. Learned counsel for the appellants has argued that the deceased was a self-employed person and his income was duly proved on record through Income Tax Returns for the Assessment Years 2020–21, 2021–22 and 2022–23, showing a consistent rise in income therefore the income declared in the latest return ought to have been taken into consideration. It is submitted that taking average income has resulted in an under-assessment of compensation payable to the claimants.

6). I have heard counsel for the parties and gone through the records of the case.

7). The limited grievance raised in the present appeal pertains to the assessment of income of the deceased. As per the record, the income declared by the deceased was as under:

- Assessment Year 2020-21- Rs. 3,24,710/-
- Assessment Year 2021-22- Rs. 3,37,050/-
- Assessment Year 2022-23- Rs. 3,77,020/-

The Tribunal erred in calculating the monthly income of the deceased by taking the average of three income tax returns and thereby calculating it as Rs. 28,855/- which formed the basis of compensation.

8). In the considered opinion of this Court, the income of the deceased should have been based on the last drawn salary which should have been taken into account for the purpose of calculating the loss of income under the Motor Vehicles Act. Thus, the only modification that is required to be made in the impugned award is that the income of the deceased has to be assessed in terms of ITR for the Assessment Year 2022-2023 instead of taking three years average income. Further, each of the claimants is entitled for Rs 44,000/- on account of loss of consortium in view of ratio of law laid down in the case of '**Magma General Insurance Company Limited vs. Nanu Ram alia Chuhru Ram and others**' - **Civil Appeal No. 9581 of 2018**, *decided on* 1**8.09.2018.**

9). With the aforesaid modification in the impugned award, the present appeal is disposed off.

10) Pending application, if any, shall also stand disposed off.

April 08, 2026 **(Pankaj Jain)**
Dpr **Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No