IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6628-2018 (O&M)
Date of Decision: February 05, 2026

Santosh and another

...Appellants

VERSUS

Rajesh Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Preeti Singh, Advocate for
Mr.Ramender Chauhan, Advocate
for the appellants.

Mr.Sudhanshu Makkar, Advocate
for respondent No.2.

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ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Sanoj, in a motor vehicular accident.

Suffice to consider the accident had taken place on 28.08.2016. On appraisal of the evidence brought on record, learned Tribunal had concluded about the accident to have been caused due to rash and negligent driving of the dumper bearing registration No.HR-61A-5082, driven by respondent No.1-Rajesh Kumar. Furthermore, considering the evidence, brought on record, learned Tribunal had assessed the earnings of deceased as

Rs.8000/- per month. Considering the age of the deceased to be 25 years and making addition to the extent of 40%, on the count of ‘future prospects’ and thereupon, considering the marital status of the deceased to be unmarried, the deduction to the extent of 1/2 was made, on the count of ‘personal expenses’. Further, only mother of the deceased was held entitled to compensation. Considering the age of the deceased, multiplier of ‘18’ was applied. Under the conventional heads, Rs.15,000/- each was granted, on each count of ‘funeral expenses’ and ‘loss of estate’. The compensation worked upon by learned Tribunal, is now reproduced in tabular form, as herein given:-

Heads	Calculation (In Rs.)
Earnings	8000/- per month
Addition of future prospects @ 40%	8000-3200=11,200/-
Deduction of 1/2 as personal expenses	11200-5600=5600/-
Multiplier of ‘18’	5600x18=12,09,600/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Total	**Rs.12,39,600/-**

The liability was fastened upon respondents No.1 and 2, jointly and severally and consequently, the claim petition was allowed and compensation was awarded to claimant No.1 only, whereas, claim of claimant No.2 and respondent No.3, was dismissed.

Being aggrieved, the appellants-claimants have filed the present appeal.

Be it noted that none of the respondents, as such, had filed any appeal.

So far as, age of deceased Sanoj is concerned, the same, as such, is not disputed. Even, it is evident from the post-mortem report that he was 25 years old. It is the pleaded case of the appellants-claimants that the deceased was having earnings of Rs.25,000/- per month. He was earning

Rs.15,000/- per month, as Supervisor in the liquor vend and was earning Rs.10,000/- from the agricultural pursuit.

However, so far as, agricultural pursuit is concerned, nothing, as such, came on record. So far as, working of deceased as Supervisor is concerned, the claimants examined PW-3 Shamsher, who owned the liquor vend. He had filed his affidavit Ex.PW3/A. He stated about running three liquor shops and the deceased was doing supervisory job, in the liquor shops and was earning Rs.15,000/- per month. He relied upon the salary certificate Ex.P4. However, it is pertinent to mention that learned Tribunal, had appropriately considered the evidence, as such, brought on record. Even though, PW-3 Shamsher had so stated, but in the cross-examination, he had stated that he had not brought any proof regarding employment of Sanoj, in their liquor vend. He also stated that he does not know, whether name of Sanoj was sent to DETC Office, as per requirement of law. Furthermore, he stated that Charan Singh s/o Hazari Lal, other partner, used to maintain the account books and the record. Said Charan Singh has not been examined.

Furthermore, the said witness stated that he does not know whether the name of Sanoj was shown as employee of their firm, in the income tax record and ITR and no deduction was made from the salary of the deceased, towards PF and ESI. No appointment letter of the deceased, as such, has been placed on record. In the given circumstances, when no evidence, has come on record, more particularly, considering when PW-3 Shamsher was the partner in the liquor shops and therefore, was in very good position to produce the record, be it appointment letter, income tax return of his business or of the employment of the deceased being reflected in the account books or any other document signed by the deceased, relating to the transaction of business in his shops, as such, has not been produced. When this witness was in good position to produce the requisite record and he has not produced the same, do weigh in the mind of the Court. Much reliance has been placed upon the salary certificate Ex.P4, but however, this is a certificate issued under the signatures of Shamsher. Nothing is coming on record, in what context, the said certificate was issued and to whom it was delivered and nothing is also coming on record, as to whether the entry relating to the issuance of certificate was made in their record maintained, in due course. In the given circumstances, no reliance, as such, can be placed upon the said document also.

Much emphasis has been laid upon the minimum wages notification dated 21.10.2016 of the Haryana Government and it is submitted that for the Supervisor, the amount of monthly salary to be taken was Rs.10,300.14, at the relevant stage. Very true, as per the notification, now produced during the course of arguments, by the counsel, the salary to be considered of the Supervisor was to the aforesaid extent, but however, it was required on the part of the claimants to substantially establish the vocation followed by the deceased. Relating to the same, as observed aforesaid, no satisfactory evidence, as such, has come on record, but for the sweeping statement made by Shamsher, more particularly, when he has not produced any document, with regard to running of liquor vends and also, when he was in better position to bring on record the documents, with regard to employment of Sanoj, with his liquor shops.

In the light of the same, it is necessary to make mention to the testimony of PW-2 Santosh, who is mother of the deceased. While facing cross-examination, she had stated that deceased was 7th class pass and she also stated that she does not have any document, with regard to indulgence of the deceased in the job of Supervisor at the liquor vend and agricultural work. Considering the same, learned Tribunal, as such, appropriately discarded the version about the deceased to be working as Supervisor and extent of his earnings as pleaded.

But anyhow, learned Tribunal further had assessed the monthly income of the deceased as Rs.8000/- per month. However, the extent of income so assessed by learned Tribunal is lower than the minimum prevalent wages. The accident had taken place on 28.08.2016. At the relevant time, the minimum wages of unskilled worker, at the relevant time was Rs.8070.44. Thus, in the minimum, the earnings ought to be considered as Rs.8070.44, which is now rounded off as Rs.8100/-. Considering it to be so, the 'work on' of the compensation, as detailed aforesaid, calls for re-determination, while taking the earning of the deceased as Rs.8100/- per month.

Since, the deceased was a bachelor, deduction to the extent of 1/2 ought to be made. Considering the age of the deceased to be 25 years, addition of 40% ought to be made, on the count of 'future prospects' and appropriate multiplier to be applied is '18'.

Apart from aforesaid, the compensation awarded under the conventional heads has to be worked upon. Before doing the needful, it is pertinent to mention that compensation has been denied to the brothers of the deceased, who are claimant No.2 and respondent No.3, in the appeal. But anyhow, as per as per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130***, all the claimants are entitled to compensation, on the count of 'loss of consortium, be it 'filial', 'spousal' or 'parental', which also comprehends 'loss of love and affection'. Considering the same, apart from mother, the brothers of the deceased, who have lost their brother, are also entitled to compensation on the count of 'loss of consortium' and therefore, in the minimum, on this count, the amount, as such, is payable to both the brothers of the deceased. Accordingly, so far as appellant-claimant No.2 and respondent No.3 are concerned, qua them, the appeal, as such, is hereby allowed and both of them are held entitled to some amount of compensation, though the extent of the same, payable to them, shall be worked upon at a later stage.

As per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, the minimum amount payable is Rs.40,000/-. While applying enhancement clause to the extent of 10%, after every three years of passing of the judgment, the compensation payable to each claimant is Rs.48,400/-. Thus, all the claimants are entitled to compensation, on the count of 'loss of consortium' to the extent of Rs.48,400/- each i.e. Rs.48,400x3=**Rs.1,45,200/-**. Even, on the count of 'funeral expenses', the amount now payable is **Rs.18,150/-**. The compensation, on the count of 'loss of estate' has been given amiss and on this count, the amount payable, at present, is **Rs.18,150/-**.

Considering the same, the compensation payable to appellants-claimants and respondent No.3, on account of death of Sanoj is re-computed, as herein given:-

Income	Rs.8100/- per month
Deduction of 1/2	Rs.8100-4050=Rs.4050/-
Addition of 40%	Rs.4050+1620=Rs.5670/-, annual whereof is Rs.68,040/-
Multiplier of '18'	Rs.68,040x18=**Rs.12,24,720/-**

Loss of consortium	**Rs.1,45,200/-**
Loss of estate	**Rs.18,150/-**
Funeral expenses	**Rs.18,150/-**
Total	**Rs.14,06,220/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.14,06,220-12,39,600=Rs.1,66,620/-**. On the enhanced amount of the compensation i.e. **Rs.1,66,620/-**, 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. Out of the enhanced compensation, as now worked upon aforesaid, appellant No.1 is held entitled to **Rs.66,620/-**, whereas, appellant-claimant No.2 and respondent No.3 are held entitled to **Rs.50,000/-** each.

The impugned Award dated 19.04.2018 stands modified, to the extent, as indicated aforesaid.

In view of the aforesaid observations, the present appeal stands allowed.

February 05, 2026 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**