



FAO-7041-2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-7041-2017

Date of decision:02.04.2025

DHARAM PAL AND OTHERS

...APPELLANTS

VS.

RAKESH KUMAR AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Aayush Gupta, Advocate &
Mr. Rishab Garg, Advocate
for the appellants.

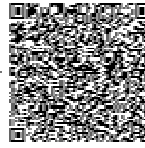
Mr. Ankit Chowdhari, Advocate
for respondent No.1.

Mr. Tejinder Pal Singh, Advocate
for respondent No.2.

SUVIR SEHGAL, J.

1. Mr. Ankit Chowdhari, Advocate has put in appearance on behalf of respondent No.1 and has filed Memorandum of Appearance, which is taken on record.

2. Mr. Tejinder Pal Singh, Advocate has put in appearance on behalf of respondent No.2 and has filed Vakalatnama, which is also taken on record.



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3. Instant appeal has been filed under the Motor Vehicles Act, 1988 (for short “MV Act”) by legal representatives of Gendo Devi, deceased. Appellants have sought enhancement of compensation granted by the Motor Accident Claims Tribunal (for short “the Tribunal”), Ambala vide award dated 20.02.2017.

4. Facts leading to the filing of the appeal are that Gendo Devi along with Nisha Devi and Sheela Devi were working as labourers. On 05.05.2016, they were returning to the fields and while trying to cross NH-72 Panchkula-Shahzadpur road, Gendo Devi was hit by a motorcycle bearing registration No.PB-65-T-5477, which was being rashly driven by respondent no.1. As a result, Gendo Devi fell on the road and sustained multiple injuries. She was taken to CHC, Shahzadpur where she was declared as brought dead. An FIR (Ex.P1) bearing No.54 dated 05.05.2016 was lodged under Sections 279, and 304-A IPC at Police Station Shahzadpur. Appellants filed a claim petition under Section 166 of the MV Act claiming compensation on account of the death of Gendo Devi, which has been partly accepted vide award dated 20.02.2017 and they have been granted compensation of Rs.4,67,000/-. Respondents have been jointly and severally held liable to pay the same, along with interest @ 7.5% per annum from the date of filing of the claim petition.

5. I have heard counsel for the parties and have considered their respective submissions.

6. On the basis of the evidence adduced, the Tribunal has come to the conclusion that the accident took place on account of rash and negligent



driving by respondent No.1 and Gendo Devi died in a vehicular accident. Tribunal found that respondent No.1 had a valid Driver's License Ex.P1 and the offending vehicle was insured under insurance policies Ex.P4 and Ex.R1.

7. Compensation was assessed by assuming the income of the deceased, who was 63 years old as Rs.7,000/- per month, which deserves to be modified and enhanced to Rs.7,976/- on the basis of minimum wages notification issued by the Government of Haryana effective from 01.01.2016. In view of the judgment of the Supreme Court in *Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121*, Tribunal has applied a deduction of 1/3rd towards personal expenses from the monthly income as the deceased had three dependents, which does not need any interference. Tribunal applied a multiplier of 7, keeping in view the age of the deceased which is in order. Tribunal has not granted any compensation on account of loss of estate. Award under the head of loss of consortium and funeral expenses deserves to be altered in view of the legal precedents.

8. In the light of the principles laid down by the Supreme Court in *Sarla Verma's case (supra), National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680* read with *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 computations of compensation deserves to be modified as below:-



Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.7,976/-
2	Deduction towards personal expenditure 1/3	Rs.2,658/- (Rs.7,976/- x 1/3)
3	Total Monthly Income	Rs.5,318/- (Rs.7,976/ subtract Rs.2,658/-)
4	Multiplier	7
5	Annual dependency	Rs.4,46,712/- (Rs.5,318/- x 12 x 7)
6	Loss of Consortium	Rs.1,44,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of Estate	Rs.18,000/-
9	Total compensation	Rs.6,26,712/-
10	Less: Award by MACT	Rs.4,67,000/-
11	Enhancement	Rs.1,59,712/-

9. Accordingly, the appellants are held to an additional compensation of Rs.1,59,712/-, 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.

10. Appeal is disposed off.

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

02.04.2025

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(SUVIR SEHGAL)
JUDGE

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