



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

(i) FAO-4022-2009 (O&M)

Beant Kaur

...Appellant

VERSUS

Gurdev Singh Mehta and others

...Respondents

(ii) FAO-4023-2009 (O&M)

Manpreet Singh

...Appellant

VERSUS

Gurdev Singh Mehta and others

...Respondents

(iii) FAO-4024-2009 (O&M)

Kulwant Kaur and others

...Appellants

VERSUS

Gurdev Singh Mehta and others

...Respondents

(iv) FAO-4025-2009 (O&M)

Gurlal Singh

...Appellant

VERSUS

Gurdev Singh Mehta and others

...Respondents

(v) FAO-4026-2009 (O&M)

Kulwant Kaur

...Appellant

VERSUS

Gurdev Singh Mehta and others

...Respondents



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(vi) FAO-4045-2009 (O&M)

Jugraj Singh

...Appellant

VERSUS

Gurdev Singh Mehta and others

...Respondents

Date of Decision: March 26, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Deepak Gupta, Advocate
for the appellants.

Ms.Jagriti Kalia, Asstt. Advocate General, Punjab
for respondents No.2 and 3.

ARCHANA PURI, J.

These are bunch of six appeals, filed to assail the various Awards of even date passed by learned Motor Accident Claims Tribunal, thereby, granting compensation on account of death of Jaspal Singh as well as injuries sustained by various other claimants, in a motor vehicular accident, which took place on 12.12.2006.

FAO-4024-2009 has been filed by the widow and sons of deceased Jaspal Singh for seeking enhancement of the compensation awarded by learned Tribunal, on account of death of Jaspal Singh, in the accident in question. However, it is pertinent to note that the claim petition qua death of Jaspal Singh was filed under Section 163-A of the Motor Vehicles Act.

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FAOs-4022, 4023, 4025, 4026 and 4045 of 2009 have been filed by the appellants-claimants, namely, Beant Kaur, Manpreet Singh, Gurlal Singh, Kulwant Kaur and Jugraj Singh, respectively, to seek enhancement of the compensation awarded, on account of injuries sustained by them, in the accident in question.

Before proceeding further, it is pertinent to mention that unfortunately, fire incident had taken place in the High Court premises in the year 2011 and much record was also destroyed in the fire. So far as, the claim petition relating to death of Jaspal Singh is concerned, it be taken into consideration that the record of the Tribunal is not available, whereas, relating to other claim petitions, the record is available. However, counsel representing both the sides, have expressed their inability to produce the copies of the pleadings and the evidence adduced before the Tribunal, relating to the case of Jaspal Singh. The copy of the paperbook was also not there qua Jaspal Singh, but however, counsel for the appellants has placed on record the copies of the paperbook, as well as the Award. Counsel for both the sides have made statement at bar that they have no objection, if the appeal qua Jaspal Singh is decided, on the basis of the material coming forth.

On appraisal of the evidence, brought on record, qua death of Jaspal Singh, compensation of Rs.3,93,500/- was granted. Qua the injuries on the person of Beant Kaur, Manpreet Singh, Gurlal Singh, Kulwant Kaur and Jugraj Singh, compensation to the extent of Rs.35,130/-, Rs.15,368/-, Rs.14722/-, Rs.20,316/- and Rs.11,850/-, respectively, was granted.

Being aggrieved, the appellants-claimants have filed the

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appeals, detail whereof, has been given aforesaid.

Firstly, let us consider the compensation, on account of death of Jaspal Singh. In this regard, it is significant to mention that claim petition was filed under Section 163-A of the Motor Vehicles Act. Apart from the copy of Award, no other document is available with the Court.

So far as the fact of accident is concerned, the same, as such, stands amply established from the testimony of witnesses recorded, during the course of evidence, as spelt out from the Award. Even, learned State counsel, as such, has not disputed about the establishment of the accident. Furthermore, it is pleaded case of the claimants that deceased Jaspal Singh was owner of 15 acres of agricultural land and used to cultivate the same and also run dairy farming. From all these sources, the deceased was earning Rs.40,000/- per annum. However, no revenue record, as such, has come on record and in the light of the same, it was rightly so observed by learned Tribunal, in paragraph No.21 of the impugned Award. But anyhow, considering the minimum tier of earnings, as that of a labourer, learned Tribunal had taken the earnings of deceased Jaspal Singh as Rs.3000/- per month. 1/3rd was deducted as 'personal expenses'. The loss of dependency was taken as Rs.2000/- per month and considering the age of the deceased to be 37 years, multiplier of '16' was applied and total compensation was worked upon as Rs.3,84,000/-. Besides the same, another amount of Rs.5,000/- was granted, on the count of 'loss of consortium' and Rs.2000/- was granted, on the count of 'funeral expenses' as well as Rs.2500/- was granted towards 'loss of estate'. The total compensation was worked upon as Rs.3,93,500/-.



The provisions of Section 163-A of the Motor Vehicles Act, is a special provision for payment of compensation, on structured formula, based in terms of Second Schedule to the Act. Considering the same and the date of accident, the extent of earnings of the deceased, more particularly, considering the earnings of the labourer, at the relevant time, so taken by learned Tribunal to the extent of Rs.3000/- per month, is just and reasonable, which calls for no interference. Further, the deduction of 1/3rd on the count of 'personal expenses' has been appropriately made and thus, the loss of dependency, comes to be Rs.2000/- per month, annual whereof, comes to be Rs.24,000/- However, considering the age of the deceased to be 37 years, the multiplier of '16', as applied by learned Tribunal is on higher side. As per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the suitable multiplier to be applied is '15'. Applying the same, the compensation works out to be $\text{Rs.24,000} \times 15 = \text{Rs.3,60,000/-}$.

As prescribed in Second Schedule to the Motor Vehicles Act has been found to be ineffective, being redundant, irrational and unworkable, due to changed scenario, including the present cost of living and current rate of inflation and increase in life expectancy and different amount was fixed under various heads by different judgments. However, this issue has now been crystalised by the judgment of Hon'ble Supreme Court in the case of *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, vide paragraph No.50 to 52, wherein it has been held that the loss of estate, loss of consortium and funeral expenses, should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, which should be enhanced on percentage basis in every three year and the enhancement should be @10%,



in a span of three years.

Thus, the compensation under the conventional heads under Section 163-A as well as Section 166 of the Motor Vehicles Act, is guided by the quantum as observed in *Pranay Sethi's case (supra)*. Considering the same, the compensation awarded by learned Tribunal, under the conventional heads, do call for enhancement.

Considering the aforesaid law, the prevalent amount to be granted on the count of 'loss of consortium' is Rs.48,400/- and all the dependents, are entitled to 'parental', 'spousal' or 'filial' consortium, as required i.e. $Rs.48,400 \times 3 = Rs.1,45,200/-$. Working on the same parameters, even, on the counts of 'loss of estate' and 'funeral expenses', the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to appellants-claimants, on account of death of Jaspal Singh, is re-computed, as herein given:-

Loss of dependency	:	Rs.3,60,000/-
Loss of consortium	:	Rs.1,45,200/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.5,41,500/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.5,41,500-3,93,500=Rs.1,48,000/-**.

So far as, the claim petitions of the injured persons are concerned, the same were filed under Section 166 of the Motor Vehicles

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Act. It is pertinent to mention that on appraisal of the evidence, brought on record, learned Tribunal had concluded that the driver of the car, who had since died i.e. Jaspal Singh was equally responsible for the accident in question and therefore, it was concluded that both the drivers have contributed in equal share, so far as the accident in question is concerned. Taking it to be so, the compensation was further worked upon.

However, the conclusion of contributory negligence has also been disputed by the injured-claimants. In the respective claim petitions, it is the categorical claim that accident had taken place, due to rash and negligent driving of bus bearing registration No.PB-03-3194, driven by Gurdev Singh Mehta and as a result of this accident, they had sustained injuries.

To so substantiate the manner of taking place of the accident, the claimants have stepped into witness box respectively and have categorically deposed about the manner of accident, as pleaded in the claim petitions. Besides the same, they have also deposed about the nature of injuries sustained by them and their admission in the hospital, as well as the treatment undergone by them.

On the other hand, though the factum of accident, as such, is not disputed, but however, the respondents have taken the plea that accident had taken place, due to rash and negligent driving of the driver of the ill-fated car, who was under the influence of the liquor. Moreover, they took the plea that respondent No.1-Gurdev Singh Mehta was found to be innocent in the enquiry conducted by Superintendent of Police (D), Mansa and he had submitted cancellation report, which is Ex.R4. In this regard, witness examined is Gurmeet Singh, DSP (HQ) Bathinda and furthermore,



respondents examined RW-2 SI Roop Singh, who have also deposed about the information having received, with regard to the admission of the injured in the hospital and that he had recorded statement of Chand Singh on 13.12.2006 and also got recovered Maruti car bearing registration No.DL-3CG-0807, broken glass of car and one bottle containing liquor to the half extent, under the seat of driver and same were taken into possession vide memo Ex.R1.

Respondent No.1-Gurdev Singh Mehta, driver of the bus, stepped into witness box and he has deposed on similar lines, with regard to the accident being result of the rash and negligent driving of deceased Jaspal Singh, who was under the influence of liquor and was not having valid driving licence. He also deposed that a false case was registered against him, under the influence of the complainant. Later on, he was found to be innocent, in the enquiry conducted by the police officials.

Considering the aforesaid case set-up by the respondents, it is pertinent to mention that learned Tribunal, though had not taken into consideration the enquiry conducted and the innocence of respondent No.1-Gurdev Singh Mehta, but however, considering the contents of the FIR, it has been concluded that it was during the process of overtaking of the truck by the deceased, the accident had taken place and therefore, both the vehicles struck against each other and thus, there was contributory negligence in equal shares.

However, the aforesaid conclusion is bereft of merits. In this regard, firstly, it is pertinent to mention that even though, cancellation report is stated to have been prepared, but, nothing as such, is coming on record, as

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to whether, the approval of the same was accorded by the Court. No such evidence has been led on record. With regard to the deceased being under the influence of liquor, no such evidence, has come on record. The post-mortem report of the deceased was of utmost importance, to prove about deceased Jaspal Singh to have consumed liquor and extent thereof, but however, the post-mortem report, as such, has not been proved.

In this regard, furthermore, reference is required to be made to the cancellation report, which has been proved in testimony of RW-1 DSP Gurmeet Singh. The perusal of the said report reveals that therein, during the course of enquiry, it has also been mentioned that the car driver had struck the car and per chance, one tyre slid to kacha path of the road and on this account, the accident had taken place. However, this in itself, counters the plea of contributory negligence. Otherwise also, as observed aforesaid, this report has not received seal of approval from the Court concerned.

In the light of the same, the plea of contributory negligence, as such, do not stand established. Suffice to consider the testimony of eye witness, who has categorically deposed about the accident to have taken place, due to and negligent driving of bus bearing registration No.PB-03-3194, driven by respondent No.1.

In the light of the aforesaid conclusion, the compensation, as worked upon by learned Tribunal, in case of all the injured persons, do call for re-determination.

FAO-4022-2009 relates to enhancement of compensation sought qua the injuries sustained by Beant Kaur, wife of Jugraj Singh. As per the pleaded case, claimant Beant Kaur was 37 years old and was

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homemaker. She had sustained various injuries in the accident in question and had spent about Rs.75,000/- on her treatment. Even, PW-3 Harcharan Singh, Record Keeper, Adesh Hospital, Bathinda had proved CR No.06/12/19798, relating to Beant Kaur. PW-4 Dr.Rajesh Badyal, Badyal Hospital, Bibi Wala road, Bathinda, has been examined, who deposed about the admission of Beant Kaur in their hospital again on 10.04.2008 and was discharged on 21.04.2008. He deposed that there was old fracture of femur bone, which was operated earlier at Adesh Hospital, approximately one year ago and it was re-operated as it was not uniting well. Various other documents were also tendered into evidence.

Considering the injuries sustained and also taking into consideration the hospitalization of claimant Beant Kaur w.e.f. 12.12.2006 to 21.12.2006, as reflected in Ex.PW3/A, learned Tribunal had taken into consideration the bills Ex.P1 to Ex.39, the total whereof is Rs.84,246/- and had scaled down the same, on account of plea of contributory negligence and besides the same, various other bills, relating to subsequent hospitalization were also deducted, as it was held that in the cross-examination, the doctor had stated that non-union of the bone, qua which, the operation was performed, is due to the negligence of the patient herself and such like fractures, are possible by fall. Upon this, various amounts of bills i.e. Ex.PW4/A, amounting to Rs.11,200/- and other supporting bills i.e. Ex.P1, amounting to Rs.1000/-, Ex.P33 amounting to Rs.1547/-, Ex.P34 amounting to Rs.2323/-, Ex.P35 amounting to Rs.529/-, Ex.P36 amounting to Rs.977/-, Ex.P37 amounting to Rs.415/-, Ex.P38 amounting to Rs.294/-, were excluded. Other bills Ex.P30, Ex.P31 and Ex.P32, amounting to Rs.88/-,



Rs.10,000/- and Rs.300/-, respectively were also excluded and they were deducted from the total bill of Rs.84,246/- and after deducting this amount, claimant Beant Kaur was held entitled to Rs.50,259/-. Out of which, 50% was deducted, on the count of contributory negligence and the amount payable was held to be Rs.25,130/-. Besides the aforesaid, on the count of special diet, Rs.5000/- was granted, on the count of 'pain and suffering', an amount of Rs.3000/- was granted and for conveyance charges, an amount of Rs.2000/- was granted. In total, the compensation awarded was Rs.35,130/-. However, the compensation aforesaid, do call for enhancement.

It is pertinent to mention that the discharge slip of Beant Kaur, with regard to her admission in Adesh Institute of Medical Sciences and Research, Bathinda, has been proved as Ex.P4. Perusal of the same reveals that claimant was admitted in the hospital from 12.12.2006 and she was discharged on 21.12.2006. She was operated on 13.12.2006 and 15.12.2006. She was diagnosed to be case of ***close # femur (L) mid distal 3rd fxn, close # BB Leg (L) mid 3rd, close # Galeazzi (L) with # radial styloid facial injuries. Further, it also reflects that procedure done was ORIF # SOF c ILN 9x380 mm, IP and ID lockings, ORIF # radius with S-DCP 6x65 with B/E slab application, ORIF # BB leg (L) c ILN 9x300 mm C IP and ID, suturing of facial wounds***’.

The learned Tribunal had placed much reliance upon the cross-examination of Dr.Rajesh Badyal, who had proved the record of admission of Beant Kaur in the hospital on 10.04.2008 to 21.04.2008, while observing that such kind of injuries could be caused due to the negligence of the patient or such like fractures are possible by fall. However, no sustenance, as



such, can be drawn from this cross-examination, as the fractures observed in the discharge summary, do co-relate to the injuries sustained by Beant Kaur, in the accident in question.

In the light of the same, it cannot be stated that it was by fall only that she had suffered fracture. She was occupant of the ill-fated car, at the relevant time and her injuries do co-relate to the date of accident. That being so and also taking into consideration ORIF having done in the hospital, it is quite obvious that second time admission was required for further procedure, vis-a-vis, ORIF. As such, all the bills of subsequent hospitalization, ought to be taken into consideration. There are various other bills, as observed aforesaid, which have been excluded, which consists of small amounts. They all ought to be taken into consideration. Thus, besides taking into consideration the amount of Ex.P1 to Ex.P39 i.e. Rs.84,246/- and also considering the bill of subsequent hospitalization, it is appropriate to grant Rs.1,00,000/-, on the count of medical expenditure.

Besides the aforesaid, the claimant must have been put on special diet as well as must have passed through trauma, during the period of hospitalization also and she also must have been looked after by some attendant for at least period of hospitalization and sometime thereafter. Considering the nature of injuries as well, she must have spent some amount on transportation. Considering all these aspects, besides the medical expenditure, she is entitled to lumpsum amount of Rs.25,000/-. Thus, total amount of compensation stands enhanced to **Rs.1,25,000/-**.

FAO-4023-2009 relates to the claim qua injuries sustained by Manpreet Singh, who was also occupant of the ill-fated car, at the time of

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accident and had sustained injuries. He was 16 years old at the time of accident and was student of St.Fateh Singh Convent School, Maur. It is pleaded case that claimant Manpreet Singh had sustained multiple injuries and was admitted in Adesh Institute of Medical Sciences and Research, Bathinda, on 13.12.2006 and discharged on 20.12.2006. Jugraj Singh, father of Manpreet Singh, stepped into witness box as PW-2 and in his affidavit Ex.PW2/A, he has deposed about multiple grievous injuries sustained on vital parts of the body including right leg, left eye and other injuries by his son, on account of which, he was admitted in Adesh Hospital. Various bills have been proved. Even, the discharge slip relating to Manpreet Singh is Ex.P15, which reveals that claimant was admitted in hospital on 13.12.2006 and was discharged on 20.12.2006. He was diagnosed to be case of Close # BB (L) Leg and patient file has been proved as Ex.PW3/A, wherein, final diagnosis was said to be # tibia # fibula. He was operated on 18.12.2006. PoP cast was applied above knee. The medical bills are Ex.P1 to Ex.P14, amounting to Rs.14,737/-. However, on the contributory negligence, 50% was deducted and the claimant was granted Rs.7368/-, as 'medical expenses'. On the count of 'special diet' Rs.3000/- was granted, another amount of Rs.3000/- was granted towards 'pain and suffering' and on the count of 'conveyance charges', an amount of Rs.2000/- was granted. In total, compensation of Rs.15,368/- was granted.

FAO-4025-2009 relates to the claim qua injuries sustained by Gurlal Singh, who was also occupant of the ill-fated car, at the time of accident and had sustained injuries. He was 17 years old at the time of accident and was student of St.Fateh Singh Convent School, Maur. Kulwant

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Kaur, mother of Gurlal Singh, stepped into witness box as PW-2 and in her affidavit Ex.PW2/A, she has deposed about multiple injuries sustained on vital parts of the body of Gurlal Singh, on account of which, he was admitted in Adesh Hospital. PW-3 Harcharan Singh had proved CR No.06/12/19796 relating to admission of Gurlal Singh. Even, the medical bills Ex.P1 to Ex.P15 were tendered into evidence and discharge slip is Ex.P16. The total of the medical bills was Rs.15,444/-. On account of contributory negligence to be there, the entitlement to the amount of medical expenditure was scaled down to Rs.7722/- i.e. 50%. Besides the same, considering the period of hospitalization from 12.12.2006 to 18.12.2006, as per Ex.P16, the claimant was also held entitled to Rs.2000/-, on the count of 'special diet', another amount of Rs.3000/- was granted towards 'pain and suffering' and on the count of 'conveyance charges', an amount of Rs.2000/- was granted. In total, compensation awarded was to the extent of Rs.14,722/-.

FAO-4026-2009 relates to the claim qua injuries sustained by Kulwant Kaur wife of Jaspal Singh (since deceased), who was also occupant of the car in question, at the relevant time of accident. It is the pleaded case that she had sustained injuries on vital parts including head injury, right eye brow, around right eye ball and various other injuries. The claimant herself had stepped into witness box as PW-2. In her affidavit Ex.PW2/A, she has reiterated the kind of injuries sustained by her and about herself to have remained admitted in Adesh Hospital, on account of injuries sustained in the accident in question. PW-3 Harcharan Singh, Record Keeper, Adesh Hospital, Bathinda had proved CR No.06/12/19796 as Ex.PW3/A which

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reveals about the claimant to have remained admitted from 12.12.2006 to 18.12.2006. Various medical bills are Ex.P1 to Ex.P14 and OPD patient card is Ex.P15.

The total of the medical bills is Rs.20,632/-. Being contributory negligence to be there, the entitlement on the count of 'medical expenditure' was scaled down to Rs.10,316/- by learned Tribunal. On the count of 'special diet', the claimant was awarded Rs.5000/-, another amount of Rs.3000/- was granted towards 'pain and suffering' and an amount of Rs.2000/- was granted, on the count of 'conveyance charges'. In total, the compensation awarded was Rs.20,316/-.

FAO-4045-2009 relates to the claim qua injuries sustained by Jugraj Singh. Appellant-claimant Jugraj Singh had stepped into witness box as PW-1 and deposed about the injuries having sustained on his head, chest, left eye, left side of face etc. and he was admitted in Adesh Hospital, Bathinda, on 12.12.2006 and he had spent Rs.60,000/-. PW-3 Harcharan Singh, Record Keeper, Adesh Hospital, proved CR No.06/12/19797, relating to claimant Jugraj Singh, which is Ex.PW3/A. The medical bills coming on record are Ex.P1 to Ex.P8.

Perusal of Ex.PW3/A reveals that the claimant sustained injuries and he remained admitted in the hospital from 12.12.2006 to 21.12.2006. The total of the medical bills was Rs.3700/- and the same was scaled down to 50%, on account of contributory negligence as held by learned Tribunal and the amount of Rs.1850/- was granted towards 'medical expenses'. Besides the same, amounts of Rs.5000/-, Rs.3000/- and Rs.2000/- were granted on the counts of 'special diet', 'pain and suffering' and 'conveyance charges'



respectively. In total, the compensation was granted to the extent of Rs.11,850/-.

In all the aforesaid appeals i.e. **FAO-4023, 4025, 4026 and 4045-2009**, as observed in the case of claimant Beant Kaur, total amount of medical bills has to be given. As observed in earlier portion of the judgment, considering the respective duration of hospitalization of each of the claimants, they are also entitled to compensation, on the counts of 'special diet', 'pain and suffering' and 'transportation' and also on the count of 'attendant charges' as they must have been looked after, at least by their family members also, who would have taken care of them by diverting their time from the gainful employment for some period of time. On the similar parameters, the claimants are entitled to enhancement of compensation, on aforesaid counts.

Thus, appellants-claimants Manpreet Singh and Gurlal Singh are held to compensation of **Rs.30,000/-** each, inclusive of medical expenditure of Rs.14,737/- and Rs.15,444/- respectively. Similarly, appellant-claimant Kulwant Kaur is held entitled to compensation of **Rs.40,000/-**, inclusive of medical expenditure of Rs.20,632/- whereas, appellant-claimant Jugraj Singh is held to compensation of **Rs.25,000/-**, inclusive of medical expenditure Rs.3700/-.

On the enhanced amount of the compensation, as now worked upon on, 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.

Accordingly, the impugned Awards stands modified, to the



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extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

With the above observations, the present appeal stands allowed.

The pending civil misc. applications, if any, shall stand disposed of.

March 26, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No