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

**FAO-3841-2019(O&M)
Date of Order:-01.04.2025**

Dalbir Singh

...Appellant

Versus

Santosh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**Present** :- Mr. Rajinder Sharma, Advocate
for the appellant.

SUVIR SEHGAL, J.(ORAL)

1. This appeal has been filed by the driver-cum-owner of the offending vehicle assailing award dated 27.02.2019 passed by the Motor Accident Claims Tribunal (for short "the Tribunal"), SAS Nagar, Mohali whereby a petition filed by claimants-respondents No. 1 to 3 under the Motor Vehicles Act, 1988 (for brevity "the MV Act"), has been accepted.

2. Facts leading to the filing of the appeal are that on 29.03.2017, Raj Kumar, after discharging his duties at the State Bank of India, Ajnala, was travelling back home to Amritsar on a motorcycle. Ankur Sharma was following him on another motorcycle. An Alto car bearing registration No. PB-02BF-0206, being rashly driven by appellant, on the wrong side of the road, collided with Raj Kumar's motorcycle. As a result of the impact, Raj Kumar fell on the road and



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sustained multiple injuries. Raj Kumar was taken to Amandeep Hospital, Amritsar, from where he was referred to Guru Nanak Hospital, Amritsar, where he was declared brought dead. An FIR, No.39 dated 29.03.2017, was lodged under Sections 279, 427 and 304-A IPC at Police Station, Ajnala. Claimants filed a petition, under Section 166 of the MV Act, claiming compensation on account of the death of Raj Kumar, which has been accepted vide award dated 27.02.2019 and they have been granted compensation of Rs.81,28,336/-. Appellant has been held liable to pay the amount, along with interest @ 6% per annum from the date of filing of the claim petition.

3. Counsel for the appellant submits that the Tribunal erred in granting an addition of 15% as future prospects. As per the law settled by the Hon'ble Supreme Court in *Smt. Sarla Verma and others Vs. Delhi State Transport Corporation and another, (2009) 6 SCC 121*, no addition towards future prospects is to be made in case a deceased employee is above the age of 50 years. He urges that the Tribunal below has failed to appreciate that the deceased was survived by his wife and the other claimants, being major sons are not entitled to compensation . It is his stand that Tribunal should have made a deduction of one-half from the income of the deceased.

4. I have heard counsel for the appellant and considered his submission.

5. 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 appellant and Raj Kumar died in the vehicular



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accident. Tribunal found that appellant had a valid driver's license and offending vehicle was not insured. Appellant never stepped into the witness box to rebut the version of the claimants and adverse inference has been drawn against him.

6. Compensation was assessed by considering the salary of the deceased as Rs. 82,000/- per month. After deducting income tax being paid by the deceased, net salary was calculated as Rs. 79,627/- per month, which is accurate as per salary slips Ex.P-4 and P-5, and does not require any interference. After taking into account the age of the deceased which was 52 years at the time of the accident as per service record Ex.P3, an addition of 15% was made for future prospects, which is in accordance with the settled legal position. Even though the sons of the deceased have attained majority, they are entitled to claim compensation under MV Act. In *National Insurance Company Limited Versus Birender and others (2020) 11 SCC 356*, it has been held that major married and earning sons have a right to apply for compensation and it would be bounden duty of Tribunal to consider their application irrespective whether they were fully dependent upon the deceased or not. A deduction of 1/3rd was rightly made towards personal expenses and expenditure, considering that the total number of dependents is three. Tribunal correctly applied multiplier of 11 on the basis of the age of the deceased. Compensation granted also included appropriate amounts under the heads of loss of estate, loss of consortium, and funeral expenses, which are justified.

7. This Court is of the view that the conclusion arrived at by



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the Tribunal is just and fair. It does not call for any interference. Tribunal has appreciated the evidence produced by the parties to arrive at the findings and the compensation amount.

8. Being devoid of merit, appeal is dismissed with no order as to costs.

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

(SUVIR SEHGAL)
JUDGE

01.04.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No