

FAO-760-1994

Date of Decision : 13.12.2017

Jaswinder Kaur and others

.....Appellants

versus

Rajinder Singh and others

....Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI**Present:** Mr. Arvind Mittal, Advocate
for the appellants.Mr. N.S. Gill, Advocate for
Mr. Munish Gupta, Advocate
for respondent No.1.Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company.**RITU BAHRI, JUDGE (ORAL)**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 16.04.1993, on account of death of Devinder Singh in a motor vehicular accident which took place on 02.08.1991. Appellant No.1 is widow and appellant Nos.2 to 5 are minor children of deceased Devinder Singh.

Brief facts of the case are that on 02.08.1991 at about 6:00 PM, Devinder Singh (since deceased) was coming to Samrala from Kansala village on his motor cycle bearing registration No.CH-01C-2665. When Devinder Singh reached near Samrala at a place which was 1½ furlongs from Bondli College, Samrala, a canter bearing registration No.PIM 9727 was negligently driven at a high speed by Rajinder Singh, Driver – respondent No.1, coming from the opposite side and struck against the motor cycle of the deceased, as a result of which, Devinder Singh died at the

spot. Consequently, claimants-appellants filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent and rash driving of the vehicle by Rajinder Singh, Driver-respondent No.1. This finding was rightly given on the basis of FIR Ex.B.1 and postmortem report, Ex.A.3. Income of the deceased was assessed as Rs.3,820/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.2,000 x 12 = 24,000/-. As per postmortem report, Ex.A.3, the deceased was 40 years of age at the time of accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.3,36,000/- (24,000 x 14). In addition to it, Rs.4,000/- was awarded towards last rites. Hence, the claimants were found entitled to a total compensation of Rs.3,40,000/- along with the interest @ 12% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased had died as a result of the accident. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by the Constitution Bench of Hon'ble the Supreme Court in **National Insurance**

Company Limited versus Pranay Sethi and others, Special Leave Petition

(Civil) No.25590 of 2014 (decided on 31.10.2017) and Sarla Verma and otherse versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77, as under:-

Sr.No.	HEADS	CALCULATIONS
I.	Income	Rs.3,820/-
II.	25% of income (I) to be added as future prospects	3820+955 = Rs.4,775/-
III.	1/4th of future prospects (II) above is deducted as personal expenses of the deceased	4775–1194=Rs.3,581/-
IV.	Compensation after multiplier of 15 is applied	Rs.3,581/- x 12 x 15 = Rs.6,44,580/-
V.	Compensation under conventional heads (loss of consortium, funeral expenses etc.)	Rs.70,000/-
VI.	Total compensation awarded	Rs.7,14,580/-
VII.	Enhanced amount of compensation	Rs.7,14,580 – 3,40,000 = Rs.3,74,580/-

The enhance amount of Rs.3,74,580/- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhance amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon’ble the Supreme Court in the case of “Kumari Kiran through her father Harinarayan versus Sajjan Singh and others”, 2015(1) SCC 539. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

13.12.2017
Neha

(RITU BAHRI)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No