

FAO-4261-2001

Date of Decision : 13.12.2017

Bilo Devi and others

.....Appellants

versus

Wazir Singh and others

....Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Surinder Gandhi, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company.

RITU BAHRI, JUDGE (ORAL)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 19.05.2001, on account of death of Ishwar Singh in a motor vehicular accident which took place on 17.09.2000. Appellant No.1 is widow, appellant No.2 is daughter, appellant No.3 is minor son and appellant No.4 is mother of deceased Ishwar Singh.

Brief facts of the case are that on 17.09.2000, a maruti car bearing registration No.DL-8CC-0825 was coming from Delhi side at a fast speed in a rash and negligent manner, whose driver had suddenly applied breaks and Ishwar Singh (since deceased) was coming on motor-cycle behind the car, dashed against it from behind, as a result of which, he suffered injuries and died on 18.09.2000 at PGI MS Rohtak. 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 respondent No.1. This finding was rightly given on the basis of FIR No.255 dated 18.09.2000 which was registered after the accident (Ex.P2). The driving license of respondent No.1 bearing No.C-97120428 (Ex.R1) on record was valid and finding has been rightly answered in favour of the claimants on issue No.1. It was deposed by Rakesh Kumar-PW3 that the deceased was employed as a Store Incharge with the Tripti Agencies, Kishanpura Rohtak and was earning Rs.3,800/- per month as per salary certificate (Ex.P3). Income of the deceased was assessed as Rs.1,800/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.1,200 x 12 = 14,400/-. As per postmortem report, Ex.P1, the deceased was 35 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.2,30,400/- (14,400 x 16) along with the interest @ 9% 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**

others versus Delhi Transport Corporation and another, 2009 (3) RCR

(Civil) 77, as under:-

Sr.No.	HEADS	CALCULATIONS
I.	Income	Rs.1,800/- per month
II.	40% of income (i) to be added as future prospects	1800+720=Rs.2,520/-
III.	1/4th of future prospects (ii) above is deducted as personal expenses of the deceased	2520 – 630 = Rs.1,890/-
IV.	Compensation after multiplier of 16 is applied	Rs.1,890/- x 12 x 16 = Rs.3,62,880/-
V.	Compensation under conventional heads (loss of consortium, funeral expenses etc.)	Rs.70,000/-
VI.	Total compensation awarded	Rs.4,32,880/-
VII.	Enhanced amount of compensation	Rs.4,32,880 – 2,30,400 = Rs.2,02,480/-

The enhance amount of Rs.2,02,480/- 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 f 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