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

**FAO No.5601 of 2002 (O&M)**

Date of Decision: 22.11.2017

Baldev Kaur and others ... Appellants

Versus

Ashok Kumar and others ... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr.Madan Pal, Advocate for the appellants

Mr.Lekh Raj Sharma, Advocate for respondent no.2

Mr.Ram Avtar, Advocate for respondent no.3

**RAJIV NARAIN RAINA, J. (Oral)**

1. This appeal has been filed by the appellants/claimants who are the widow and four sons of deceased Balbir Singh, seeking increase in compensation awarded by the Motor Accident Claims Tribunal, Kurukshetra vide its award dated 5th April, 2001.

2. Late Balbir Singh was an Assistant Lineman in the Haryana Vidhyut Parsaran Nigam Ltd. The last drawn salary was ₹ 6849/- per month short of death in a road accident. He left behind his widow, four sons and his father. The father is not claimant or appellant in this appeal. The fatal accident occurred on 28th October, 1999 when Balbir Singh was returning from Dhanani to Village Babain on a Scooter. The accident was caused by rash and negligent driving of Truck driver Ashok Kumar, respondent no.1. The occurrence is not disputed. The deceased was 50 years of age, as per the *post mortem* report. The vehicle was insured and Insurance Company was liable to indemnify the insured

owner of offending Truck No.HRX 6885. The Tribunal has awarded a sum of ₹5.50 lakhs compensation jointly and severally payable by the insured and insurer. The break-up of this amount was calculated to read ₹4500 x 12 x 10 = ₹ 5,40,000/- plus ₹5,000/- as funeral expenses and a like amount for loss of consortium. The total amount of compensation as awarded by the Tribunal came to ₹5,50,000/-. The amount has been awarded with 9% interest from date of claim application till payment. The amount has been paid. Claimants ask for enhancement of compensation in tune with the law.

3. Mr. Madan Pal, learned counsel for the appellants has produced a tabulated sheet of the proposed increase which figures have been shared with Mr.Ram Avtar, Advocate appearing for the Insurance Company and Mr. Lekh Raj Sharma, learned counsel for the insured owner of the offending vehicle. The break up of the compensation under the conventional heads as is mentioned in the chart is reproduced as under:-

| Sr. No. | Heads | Calculations |
|---|---|---|
| 1. | Income | ₹ 6849/- per month |
| 2. | Addition of 30% for Future Prospects | ₹ 2055 per month |
| 3. | Total Income | ₹ 8904 per month |
| 4. | Deducation of 1/3rd for personal expenses | ₹ 2968 |
| 5. | Annual dependency | ₹ 8904-2968=5936 x 12= 71232 |
| 6 | Loss of consoritum | ₹ 40,000 |
| 7. | Loss of Estate | ₹ 15000/- |
| 8. | Funeral Expenses | ₹ 15000/- |

| | | |
|---|---|---|
| | Total compensation | ₹ 9,96,016/- |
| | Enhanced compensation | (₹ 996016 – ₹ 5,50,0000= ₹<br>₹ 4,46,019/- |

4. Having heard the learned counsel for the parties on the chart, there can be no doubt that it has been prepared in tune with the latest declaration of law in National Insurance Company ltd. vs. Pranay Sethi and others, SLP (C) No.25590 of 2014 decided by the Supreme Court on 31st October, 2017. The multiplier of 13 has been applied which is appropriate and accordingly annual dependency has been worked out, including addition of 30% for future prospects which is as per law as the deceased fell in the 30% bracket as per the Supreme Court judgment. The grand total of the compensation which deserves to be awarded is enhanced to ₹9,96,016/- less the amount of compensation already paid, i.e., ₹5,50,000/- and the balance remaining ₹4,46,019/- represents the compensation enhanced by this Court. It is so ordered. Besides, the Tribunal assessed counsel fees at ₹550/- which is increased a bit realistically to ₹5500/-. The additional amount of ₹5000/- will be due and payable to the claimants without any interest thereon.

5. Accordingly, this appeal is partially allowed and the award is modified to the extent indicated above. The respondent-Insurance Company on whom the liability falls will deposit the enhanced compensation before the MACT, Kurukshetra/Executing Court within six weeks from the date of receipt of a copy of this order and the enhanced amount will be disbursed to the claimant as per law. The rate of interest awarded by the Tribunal is maintained since it has been applied at the appropriate time in the discretion of the Tribunal which is not to be disturbed. In case of default in timely deposit, the enhanced

compensation will carry interest at the rate of 12% per annum till payment. However, the enhanced counsel fee/costs will not carry interest.

**(RAJIV NARAIN RAINA)**
**JUDGE**

**22.11.2017**
**MFK**

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|---|---|
| *Whether speaking/reasoned* | *Yes* |
| *Whether Reportable* | *No* |