

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

FAO No.1123 of 2005 (O&M)

Date of decision: 08.12.2017

Smt. Kuldeep Kaur and others

....Appellants

Versus

Rajinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Neeraj Khanna, Advocate,
for the appellants.

Mr. Harsh Aggarwal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Fast Track Court, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 21.11.2003, on account of death of Gursharan Singh in a motor vehicular accident which took place on 29.12.2001. Appellant No. 1 is widow, appellant Nos.2 to 5 are children and appellant No. 6 is mother of deceased Gursharan Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.12.2001, Gursharan Singh (since deceased) along with Rajinder Singh-respondent No.1 was going from Aggarwal Vaishno Dhaba, Neela Bhawan Market, Patiala towards Police Post, Model Town on a scooter bearing registration No. HR-01-L-8770. The said scooter was being driven by Rajinder Singh, whereas

Gursharan Singh was a pillion rider. They were followed by another scooter bearing registration No. PB-11-B-0565 being driven by Pawan Kumar, Constable. At about 9.45 P.M., when they reached near Neela Bhawan Market, Patiala, some bricks were lying on the road on the *kacha* berm and the scooter, due to rash and negligent driving by respondent No.1, went on the bricks and fell down. As a result of this, both the occupants of the scooter suffered injuries. Gursharan Singh fell down on his right side on the metalled part of the road. Parveen Kumar son of Amar Nath, resident of Patiala witnessed the said accident. Pawan Kumar also reached there and took Gursharan Singh to Amar Hospital, but he succumbed to the injuries on the way to hospital. With regard to the accident, DDR entry Ex.P2 was registered. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION AWARDED BY 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 rash and negligent driving of offending vehicle by respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Parveen Kumar (PW-3), who was an eye witness of the accident. The claimants have also proved copy of DDR entry No.29 Ex.P2.

As per salary certificate Ex.P1, deceased was drawing Rs.9506/- per month. Rs.500/- was deducted on account of his personal allowances and installment of house loan. Therefore, his total carry home income came to be Rs.9006/-, rounded off as Rs.9000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The

dependency of claimants, thus, came to Rs.6000/- (Rs.9000 – 3000) i.e. Rs.72,000/- per annum. Deceased-Gursharan Singh was 45 years of age at the time of accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.7,92,000/- (Rs.72,000/- x 11). In addition to it, Rs.2000/- were awarded towards funeral expenses and Rs.2000/- as loss of consortium to claimant No.1. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.7,96,000/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till its realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

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

Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 that the accident took place due to rash and negligent driving of offending vehicle by its driver-respondent No.1.

The fact of accident is admitted and proved. It stands established that the deceased has 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 Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
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(i)	Income	Rs.9000/- per month
(ii)	30% of (i) above to be added as future prospects	$9000 + 2700 = \text{Rs.}11,700/-$
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	$11,700 - 2925 = \text{Rs.}8775/-$
(iv)	Compensation after multiplier of 14 is applied	$\text{Rs.}8775/- \times 12 \times 14 = \text{Rs.}14,74,200/-$
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.15,44,200/-
(vii)	Enhanced amount of compensation	$\text{Rs.}15,44,200 - 7,96,000 = \text{Rs.}7,48,200/-$

The enhanced amount of compensation of **Rs.7,48,200/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced 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 vs. 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.

(RITU BAHRI)
JUDGE

08.12.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No