

FAO-3932-2005

Date of Decision : 13.12.2017

Sardari Devi and others

.....Appellants

versus

Ajmer Singh and others

....Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI**Present:** Mr. K.S. Dhanora, Advocate
for the appellants.Mr. V.K. Garg, Advocate
for respondent No.3.**RITU BAHRI, JUDGE (ORAL)**

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 07.04.2005, on account of death of Kehar Singh in a motor vehicular accident which took place on 23.02.2004. Appellant No.1 is widow, appellant No.2 is mother, appellant Nos.3 and 4 are the sons and appellant No.5 is the daughter of deceased Kehar Singh.

Brief facts of the case are that on 23.02.2004, Kehar Singh (since deceased) after attending the ring ceremony of one Jagdish was coming from Rattangarh-Kakrali village in a jeep bearing registration No.DED-6015 driven by him at a moderate speed. When Kehar Singh reached on Dhand Pundri Road, Kaithal, a tractor-trolley (Mahindra) bearing registration No.HR-07E-5058 was coming on wrong side and negligently driven at a high speed by respondent No.1, hit the jeep of the deceased, as a result of which, Kehar 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 respondent No.1. This finding was rightly given on the basis of FIR Ex.P1. Income of the deceased was assessed as Rs.5,244/- per month, out of which, 6/8th amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.5,244 x 12 x 6/8 = 47,196/-. The deceased was 59 years of age at the time of accident/death and the multiplier of 8 was applied. Thus, the claimants were found entitled to compensation of Rs.3,77,568/- (47,196 x 8). In addition to it, Rs.5,000/- was awarded towards loss of consortium, Rs.5,000/- for funeral expenses and Rs.1,000/- for transportation. Hence, the claimants were found entitled to a total compensation of Rs.3,88,568/-. 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 othere versus Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) 77, as under:-

Sr.No.	HEADS	CALCULATIONS
I.	Income	Rs.5,244/- per month
II.	15% of income (I) to be added as future prospects	5244+787 = Rs.6,031/-
III.	1/3 rd of future prospects (II) above is deducted as personal expenses of the deceased	6031–2010=Rs.4,021/-
IV.	Compensation after multiplier of 8 is applied	Rs.4,021/- x 12 x 9 = Rs.4,34,268/-
V.	Compensation under conventional heads (loss of consortium, funeral expenses etc.)	Rs.70,000/-
VI.	Total compensation awarded	Rs.5,04,268/-
VII.	Enhanced amount of compensation	Rs.5,04,268 – 3,88,568 = Rs.1,15,700/-

The enhance amount of Rs.1,15,700/- 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