

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

FAO No.4055 of 2006 (O&M)

Date of decision: 07.12.2017

Smt. Leelawati and others

....Appellants

Versus

Prem Pal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nonish Kumar, Advocate,
for the appellants.

Mr. Namit Khurana, Advocate,
for respondent No.1.

Mr. R.N. Singal, 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, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 12.01.2006, on account of death of Ghasitu Ram in a motor vehicular accident which took place on 02.01.2004. Appellant No. 1 is widow and appellant Nos.2 to 5 are children of deceased Ghasitu Ram.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 02.01.2004, at about 5.30P.M., Ghasitu Ram (since deceased) and one Satpal were going towards Sugar Mill to attend their duties on separate bicycles. In the meantime, a truck bearing registration No. HR-38-2975 being driven by Prem Pal-

respondent No.1 in a rash and negligent manner, came and struck against

tractor-trolley No.HYL-6963, due to which, driver of tractor-trolley could not control the same and struck against Ghasitu Ram and Satpal. As a result of this, Ghasitu Ram died at the spot, whereas Satpal sustained grievous injuries in his right leg and shoulder. With regard to the accident, FIR No.04 dated 02.01.2004, under Sections 279/337/304-A IPC was registered against respondent Nos.1 and 4. 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 taken place on account of rash and negligent driving of offending vehicle (truck) 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 Satpal (PW-4), who was an eye witness of the accident and whose statement, FIR, Ex.P1 was registered.

Deceased-Ghasitu Ram was employed in Sugar Mill. While assessing the income of deceased, the Tribunal has taken into consideration his last drawn gross salary, which was Rs.7956/- per month as on 31.12.2003. However, his carry home salary was Rs.4296/- per month after deducting GPF etc. Accordingly, income of the deceased was taken as Rs.4300/- per month i.e. Rs.51,600/- per annum. Out of this, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.34,600/-, rounded off as Rs.35,000/- per annum. Deceased-Ghasitu Ram was 47 years of age at the time of accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.4,55,000/- (Rs.35,000/- x 13) along with interest at the rate of Rs.7.5% 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
(i)	Income	Rs.4300/- per month
(ii)	25% of (i) above to be added as future prospects	4300 + 1075 = Rs.5375/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	5375 – 1791 = Rs.3584/-
(iv)	Compensation after multiplier of 13 is applied	Rs.3584/- x 12 x 13 = Rs.5,59,104/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.6,29,104/-
(vii)	Enhanced amount of compensation	Rs.6,29,104 – 4,55,000 = Rs.1,74,104/-

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

07.12.2017
ajp

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