

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

FAO No.5203 of 2006 (O&M)

Date of decision: 12.12.2017

Sukhwinder Kaur and others

....Appellants

Versus

Mohinder Singh alias Lunga and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sagar Aggarwal, Advocate,
for the appellants.

Mr. Ram Avtar, 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, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 15.05.2006, on account of death of Amrik Singh in a motor vehicular accident which took place on 24.04.2004. Appellant No. 1 is widow, appellant Nos.2 to 4 are children and respondent No. 4 is father of deceased Amrik Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.04.2004, Amrik Singh (since deceased) along with Sukhwinder Singh and Balkar Singh was going from village Madanpur towards Ambala on a tractor-trolley, which was loaded with vegetables. The said tractor-trolley was being driven by Balkar Singh. At about 11.40 P.M., when they reached little ahead of Kushth

Ashram on G.T. Road, Balkar Singh halted the tractor-trolley in *katcha* portion and alighted from the tractor for urination, while Amrik Singh and Sukhwinder singh remained sitting on the mudguards of the tractor. In the meantime, a truck bearing registration No. JK-02-H-9273 being driven by Mohinder Singh-respondent No.1 in a rash and negligent manner, came from backside and hit the tractor-trolley, as a result of which, tractor turned turtle by hitting the divider of G.T. Road. Due to this, Amrik Singh came under the trolley and died at the spot. With regard to the accident, FIR No.125 dated 25.04.2004, under Sections 279/337/304-A IPC was registered against respondent No.1 . 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 by its driver-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Balkar Singh (PW-1), who was an eye witness of the accident. The claimants have also proved copy of FIR Ex.P1.

In the absence of any documentary proof, income of deceased was assessed as Rs.2700/- per month as that of a labourer, out of which, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.1800/- per annum i.e. Rs.21,600/-. Deceased-Amrik Singh was 40 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.2,80,800/- (Rs.21,600/- x 13). In addition to it,

Rs.10,000/- were awarded on account of expenses on treatment, transportation, last rites, loss of consortium etc. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.2,90,800/- along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization. Feeling dissatisfied with the impugned award, the claimant-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. Keeping in view that the deceased was working as drill operator, his monthly income is taken as Rs.3000/-. 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.3000/- per month
(ii)	25% of (i) above to be added as future prospects	3000 + 750 = Rs.3750/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	3750 – 937 = Rs.2813/-

(iv)	Compensation after multiplier of 15 is applied	Rs.2813/- x 12 x 15 = Rs.5,06,340/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.5,76,340/-
(vii)	Enhanced amount of compensation	Rs.5,76,340 – 2,90,800 = Rs.2,85,540/-

The enhanced amount of compensation of **Rs.2,85,540/-** 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

12.12.2017
ajp

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