

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

**FAO No.873 of 2011 (O&M)
Date of decision: 07.12.2017**

Suman and another

....Appellants

Versus

Gulam Hussain @ Gulab Hussain and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gorav Arora, Advocate,
for Mr. Sachin Mittal, Advocate,
for the appellants.

Mr. Neeraj Khanna, 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, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 25.01.2010, on account of death of Som Parkash in a motor vehicular accident which took place on 09.11.2007. Appellant No. 1 is widow and appellant No.2 is son of deceased Som Parkash.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.11.2007, at about 2.30P.M., Som Parkash (since deceased) along with one Sudhir (pillion rider) was going from Railway Chowk, Rewari to Naiwali Rewari on a motorcycle. When they reached near Ramjash Hospital, a tanker bearing registration No. MH-06-K-6706 being driven by Gulam Hussain @ Gulab

opposite side and hit their motorcycle, as a result of which, Som Parkash fell down on the road and front wheel of the offending vehicle crushed his head. With regard to the accident, FIR No.299 dated 09.11.2007, under Sections 279/337/304-A IPC was registered against respondent No.1 at Police Station, City, Rewari. 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 (tanker) 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 Sudhir (PW-4), who was an eye witness of the accident and whose statement, FIR, Ex.P4 was registered.

Deceased-Som Parkash was serving in Indian Army. While assessing the income of deceased, the Tribunal has taken into consideration salary certificates Ex.PW6/C, as per which, he was drawing total salary of Rs.10,578/-, including all other allowances. Monthly salary of the deceased comprising basic pay plus grade pay plus dearness allowances came to Rs.7964/- and allowances worth Rs.2614/-. Accordingly, income of the deceased was taken as Rs.7964/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.5310/- per month i.e. Rs.63,720/- per annum. Deceased-Som Parkash was 29 years of age at the time of accident/death and the multiplier of 17 was applied. Thus, the claimants were found entitled to compensation of Rs.10,83,240/- (Rs.63,720/- x 17). In addition to it, Rs.10,000/- were awarded towards funeral expenses etc. Ultimately, the

claim petition was allowed and claimants were found entitled to Rs.10,93,240/- along with interest at the rate of Rs.6% 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.8000/- per month
(ii)	40% of (i) above to be added as future prospects	8000 + 3200 = Rs.11,200/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	11,200 – 3733 = Rs.7467/-
(iv)	Compensation after multiplier of 17 is applied	Rs.7467/- x 12 x 17 = Rs.15,23,268/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-

(vi)	TOTAL COMPENSATION AWARDED	Rs.15,93,268/-
(vii)	Enhanced amount of compensation	Rs.15,93,268 – 10,93,240 = Rs.5,00,028/-

The enhanced amount of compensation of **Rs.5,00,028/-** 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

07.12.2017
ajp

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