

FAO-149-2013 (O&M)
Date of Decision : 13.12.2017

Baljeet Kaur and others

.....Appellants

versus

Nachhatter Singh and others

....Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Nisha Malik, Advocate for
Mr. J.S. Khiva, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate
for respondent No.3-Insurance Company.

RITU BAHRI, JUDGE (ORAL)

CM-715-CII-2013

Allowed as prayed for.

CM-716-CII-2013

Prayer made in the application is for condonation of delay of
34 days in filing the present appeal.

For the reasons mentioned in the application, delay of 34 days
in filing the present appeal is condoned.

Application is allowed.

FAO-149-2013

This appeal has been filed by the claimants-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Mansa (hereinafter referred to as 'the Tribunal') vide award dated
02.08.2012, on account of death of Chamkaur Singh in a motor vehicular
accident which took place on 30.07.2011. Appellant No.1 is mother,
appellant No.2 is father and appellant No.3 is sister of deceased Chamkaur

Singh.

Brief facts of the case are that on 30.07.2011 at about 7:20 PM, Chamkaur Singh (since deceased) with his friend Gurparjit Singh, after completion of their domestic work, was going from Mansa to the village on their motor cycle bearing registration No.PB-31H/5033. The said motor cycle was being driven by one Gurparjit Singh and when reached near Peerkhana of village Bhaini Bagha, a Tanker bearing registration No.PB-03E/5626 came from the side of bus stand of village Bhaini Bagha which was negligently driven at a very high speed by respondent No.1, hit against the motor cycle, as a result of which, Chamkaur 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.PW-2/A and postmortem report, Ex.P1. Chamkaur Singh (since deceased) was 20 years of age. The income was assessed as Rs.4,000/- per month, being that of a daily wager, in addition to 30% increase as future prospects. So, the total income of the deceased was assessed as Rs.5,200/- out of which, 50% amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to $\text{Rs.}2,600 \times 12 = 31,200/-$. For adopting the multiplier, age of the claimants No.1 and 2, was taken into consideration and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.4,36,800/- ($31,200 \times 14$). In addition to it, Rs.5,000/- was awarded towards funeral expenses and Rs.5,000/- as loss of estate. Hence, the

claimants were found entitled to a total compensation of Rs.4,46,800/- along with the interest @ 7.50% per annum from the date of filing of the petition till realization. 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. After going through the impugned award, multiplier has to be applied keeping in view the age of deceased-Chamkaur Singh instead of the claimants. 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 others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77, as under:-

SR.NO	HEADS	CALCULATIONS
i.	Income	Rs.5,200/- per month
ii.	40% of (i) to be added as future prospects	5200 + 2080 = Rs.7,280/-
iii.	50% of (ii) above is deducted as his personal expenses	7280 – 3640 = Rs.3,640/-
iv.	Compensation after multiplier of 18 is applied	Rs.3,640/- x 12 x 18 = Rs.7,86,240/-
v.	Compensation under conventional heads	Rs.30,000/-
vi.	Total compensation awarded	Rs.8,16,240/-
vii.	Enhanced amount of compensation	Rs.8,16,240/- – 4,46,800 = Rs.3,69,440/-

The enhance amount of Rs.3,69,440/- 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