

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

**FAO No.1370 of 2015 (O&M)
Date of decision: 27.11.2017**

Saraswati Devi and others

....Appellants

Versus

Shyam Lal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikram Bali, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

CM No.3839-CII of 2015

In view of the averments mentioned in the application, same is allowed and delay of 217 days in filing of the appeal is condoned.

FAO No.1370 of 2015

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 15.02.2014, on account of death of Hemant Singh in a motor vehicular accident which took place on 09.11.2011. Appellant Nos.1 and 2 are parents and appellant No.3 is sister of deceased Hemant Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.11.2011, Hemant Singh

(since deceased) along with his friends was going from village Madanpur to

'T' point Morni on a motorcycle bearing registration No.HR-03-K-6031. The motorcycle was being driven by the deceased himself. When they reached near Monkey Hills towards 'T' point Morni, a vehicle (Tanker) bearing registration No. HR-04-N-2717, being driven by Shyam Lal-respondent No.1 in a rash and negligent manner, came from behind and hit the motorcycle of Hemant Singh, as a result of which, he (Hemant Singh) received injuries and died at the spot. With regard to the incident, FIR No. 244 dated 10.11.2011, under Sections 279/337/304-A IPC was registered at Police Station, Chandimandir. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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 truck by respondent No.1, as a result of which Hemant Singh has died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Manpreet Singh (PW-2), who was an eye witness of the accident and on whose statement, FIR Ex.PW2/B was registered.

In the absence of any documentary proof, income of the deceased was assessed as Rs.5000/- per month as that of a daily wager. In this income, 30% has been added on account of future prospects, which came to be Rs.6500/- per month. Out of this, 50% amount was deducted towards personal expenses of the deceased. The deceased was 22 years of age at the time of accident/death. He was a bachelor. After applying the multiplier of 18, dependency of claimant No.1 came to Rs.7,02,600/- (6500/- x $\frac{1}{2}$ x 12 x 18). In addition to it, Rs.25,000/- were awarded on

account of funeral expenses and Rs.5000/- towards loss of estate. Hence, the claimant No.1 was found entitled to total compensation of Rs.7,32,600/- along with interest @ 7.5% per annum from the date of filing of the petition till 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.

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.5000/- per month
(ii)	40% of (i) above to be added as future prospects	5000 + 2000 = Rs.7000/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7000 – 3500 = Rs.3500/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3500/- x 12 x 18 = Rs.7,56,000/-
(v)	Funeral expenses and love and affection etc.	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.7,86,000/-
(vii)	Enhanced amount of compensation	Rs.7,86,000 – 7,32,600 = Rs.53,400/-

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

27.11.2017
ajp

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