

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

**FAO No.2056 of 2014 (O&M)
Date of decision: 12.12.2017**

Dalbir Singh Malik and others

....Appellants

Versus

Sikander Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Saurav Bhardwaj, Advocate,
for the appellants.

Mr. Ashwani Arora, Advocate,
for respondent No.2.

Mr. L.M. Suri, 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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 07.12.2013, on account of death of Ajay Malik in a motor vehicular accident which took place on 04.06.2012. Appellant Nos. 1 & 2 are parents and appellant No.3 is brother of deceased Ajay Malik.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.06.2012, Ajay Malik (since deceased) along with his cousin Ravinder Singh Malik was going on Activa scooter bearing registration No.HR-03-L-8282. Ajay Malik was a pillion rider. When they reached near Ghaggar Bride, Sector 21, Panchkula, a Swaraj Canter bearing registration No. HR-68-A-4166 being driven by

Sikander Ram-respondent No.1 in a rash and negligent manner, came and

struck against the scooter, as a result of which, Ajay Malik received injuries and died. With regard to the accident, FIR No.186 dated 04.06.2012, under Sections 279/304-A IPC was registered at Police Station, Sector-5, Panchkula, 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 Ravinder Singh Malik (PW-1), who was an eye witness of the accident. The claimants have also proved FIR Ex.P1, postmortem report Ex.P2 and copy of report under Section 173 Cr.P.C. Ex.P3.

Deceased Ajay Malik was student of 12th standard in K.B. DAV, Senior Secondary School, Sector 7, Chandigarh and was aged about 16-17 years at the time of death/accident. Accordingly, notional income of the deceased was taken at Rs.30,000/- the multiplier of 16 was applied. Thus, dependency of claimants came to Rs.4,80,000/- (Rs.30,000/- x 16). In addition to it, Rs.50,000/- were awarded under the conventional heads like funeral expenses, loss of love and affection and loss of estate. Ultimately, the claim petition was allowed and claimant Nos. 1 and 2 were found entitled to Rs.5,30,000/- 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. In the present case, date of birth of deceased was 28.08.1995 and the accident took place on 04.06.2012. Meaning thereby, he was more than 16 years and 10 months. In 2012 minimum wages in State of Haryana were Rs.5000/- per month. Accordingly, 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)	Compensation after multiplier of 18 is applied	Rs.5000/- x 12 x 18 = Rs.10,80,000/-
(iii)	Compensation under conventional heads (funeral expenses etc.)	Rs.30,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.11,10,000/-
(v)	Enhanced amount of compensation	Rs.11,10,000 – 5,30,000 = Rs.5,80,000/-

The enhanced amount of compensation of **Rs.5,80,000/-** 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