

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

FAO No.4897 of 2013 (O&M)

Date of decision: 12.12.2017

Charanjit Kaur and others

....Appellants

Versus

Sarwan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Bhupinder Singh, Advocate,
for the appellants.

Mr. D.P. Gupta, Advocate,
for respondent No.4-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, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 16.01.2013, on account of death of Narinder Singh in a motor vehicular accident which took place on 12.06.2011. Appellant No. 1 is widow, appellant Nos.2 to 4 are children and appellant Nos. 5 & 6 are parents of deceased Narinder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.06.2011, Narinder Singh (since deceased) was going to his office on a motorcycle bearing registration No. PB-10-CZ-2114. When he reached near T-point, Janakpuri, Ludhiana, a Mahindra Jeep bearing registration No. PB-10-BX-3767 being driven by Sarwan Singh-respondent No.1 in a rash and negligent

manner, came from the side of Cheema Chowk and struck against the motorcycle of Narinder Singh, as a result of which, he fell down on the road and received multiple injuries. Brother of Narinder Singh, who was following him, took him to Christian College and Hospital, where he succumbed to the injuries. With regard to the accident, FIR No.95 dated 12.06.2011, under Sections 304-A, 279, 427 IPC was registered at Police Station, Division No.6, Ludhiana, 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 Devinder Singh (CW-2), who was an eye witness of the accident. The claimants have also proved copy of postmortem report Ex.CW1/1 and copy of FIR Ex.CW1/3.

In the absence of any documentary proof, income of deceased was assessed as Rs.6000/- per month as that of a skilled labourer. His annual income came to be Rs.72,000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.48,000/- per annum. Deceased-Narinder Singh was 48 years of age at the time of accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.5,28,000/- (Rs.48,000/- x 11). In addition to it, Rs.5000/- were awarded as loss of consortium, Rs.2000/- towards funeral expenses and Rs.2500/- as loss of estate. Ultimately, the claim petition was allowed and claimants were

found entitled to Rs.5,37,500/- along with interest at the rate of 6% 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 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.7000/- per month
(ii)	25% of (i) above to be added as future prospects	7000 + 1750 = Rs.8750/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	8750 – 2187 = Rs.6563/-
(iv)	Compensation after multiplier of 14 is applied	Rs.6563/- x 12 x 13 = Rs.10,23,828/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.10,93,828/-

(vii)	Enhanced amount of compensation	Rs.10,93,828 – 5,37,500 = Rs.5,56,328/-
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The enhanced amount of compensation of **Rs.5,56,328/-** 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