

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

**FAO No. 1969 of 2016(O&M)
Date of decision : 14.11.2017**

Shakuntala Appellant

versus

Balraj and others Respondents

**FAO No. 7746 of 2015(O&M)
Date of decision : 14.11.2017**

Sunita and another Appellants

versus

Balraj and others Respondents

CORAM : HON'BLE MR. JUSTICE RITU BAHRI

Present: Dr.Parveen Hans, Advocate for the appellants.

Mr.Sanjeev Goyal, Advocate for respondent No.3.

RITU BAHRI, J. (Oral)

This common order shall dispose of the aforesaid two appeals i.e. FAO No. 1969 of 2016 and FAO No.7746 of 2015 filed by the legal representatives of two deceased namely Dharmender and Vikram , against the award of the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') who died in a motor vehicular accident which took place on 04.05.2013. Appellants in FAO No. 7746 of 2015 are the parents of deceased Vikram whereas appellant in FAO No. 1969 of 2016 is the mother of deceased Dharmender.

FACTS NOT IN DISPUTE

Briefly, the facts of the case are that on 04.05.2013. Dharmender along with his cousin Vikram was going from Ladwa (District Hisar) to Israna (District Panipat) on a motor cycle which was being driven by Vikram. When they reached near PWD Rest House, village Rajthal, Tehsil Narnaud (District Hisar), a TATA 407 vehicle bearing registration No. HR-46C/6066 being driven in a rash and negligent manner came from opposite side and hit against the motor cycle of Vikram. Due to this collision Vikram sustained fatal injuries on his person and died at the spot whereas Dharmender received serious injuries and was removed to hospital at Jind from where he was taken to PGI MS Rohtak and later on died due to the injuries suffered by him in the accident. In respect of the accident, FIR No. 303 dated 21.05.2012, Ex.P6 was registered against respondent No.1 on the statement of Krishan (PW4). Consequently the claimants filed separate claim petitions before the Tribunal.

Upon notice respondents No. 1 and 2 filed written statement alleging that no accident had taken place. Insurance company-respondent No.3 also filed its separate written statement . On the basis of pleadings of parties, following issues were framed:-

1. Whether the accident in question occurred due to rash and negligent driving of the offending vehicle TATA 407 bearing registration No. HR-46C-6066 by respondent No.1?OPP
2. Whether the petitioners in both the petitions are entitled to recover the compensation from the respondents, if so to what extent?OPP
3. Whether the present petitions of the petitioners are not maintainable in law?OPD
4. Relief.

Findings on issue No.1 have been given in favour of the claimants that the FIR Ex.P6 reveals the number of the offending vehicle but name of the driver had not been given. Author of the FIR Ex.P6 was PW4 Krishan who has given the description of the vehicle as TATA and identified the driver of the vehicle in the police station. After investigation was complete, challan Ex.P5 was filed against driver-respondent no.1 Balraj and the findings have been rightly given.

COMPENSATION ASSESSED BY MACT

Firstly, FAO No. 1969 of 2016 is being discussed for the purpose of compensation awarded to deceased Dharmender assessed by the Tribunal which is as under:-

As per PW1 Shakuntala, mother of deceased Dharmender, her son was doing a private job at Toll Plaza, Dar Noltha, Tehsil Israna and was getting Rs. 10,000/- per month as salary. Besides that he was also earning Rs. 20,000/- per month from agriculture. He was 23 years of age at the time of his death. The Tribunal assessed his monthly income at Rs. 7500/- per month. In this way his annual income comes to (Rs. 7500 x 12) Rs. 90,000/-. Out of that 50% amount was deducted towards his personal expenses. The annual dependency thus comes to (Rs. 90,000/- - Rs. 45,000/-) Rs. 45,000/-. Keeping in view the age of the parents of deceased, multiplier of 13 was adopted. By applying that multiplier, the total amount of compensation comes out to (Rs. 45,000/- x 13) Rs. 5,85,000/-. Besides this, an amount of Rs. 1,00,000/- was awarded towards loss of love and affection, Rs. 25,000/- towards cost of litigations and Rs. 25,000/- were awarded on account of transportation and funeral ceremony. The total amount of compensation awarded to the claimants thus came to Rs. 7,35,000/-.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The compensation awarded by the Tribunal needs to be reassessed in view of the recent five judges' bench judgement of the Supreme Court in the case of **National Insurance Co. Ltd vs Pranay Sethi and others , Special Leave Petition(Civil) No. 25590 OF 2014, decided on 31 October, 2017.** In this case the Supreme Court has held that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. In view of the above cited judgment in the case of Pranay Sethi(supra) and in the case of Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) page 77, the compensation is reassessed as under:-

Sr.No. (i)	HEADS Income	CALCULATIONS Rs.7500/-per month
(ii)	40% of (i) above to be added as future prospects	7500 + 3000= Rs.10,500/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	10,500-5,250= Rs.5250/-
(iv)	Compensation after multiplier of 18 is applied	Rs.5250 x 12 x 18= Rs.11,34,000/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.11,64,000/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.11,64,000-7,35,000 = Rs. 4,29,000/-

The enhanced amount of compensation of Rs. 4,29,000/- shall carry interest at the rate of 9% p.a. from the date of filing of claim petition till realisation, 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.** The enhanced amount shall be payable within a period of two months from the date of receipt of certified copy of this order. Remaining conditions of disbursement of amount shall remain unaltered.

Accordingly the award stands modified to the above extent and the present appeal is partly allowed.

FAO-7746-2015

This appeal has been filed by the parents of deceased Vikram who also died in the same accident.

COMPENSATION ASSESSED BY MACT

As per PW2 Smt.Sunita, mother of deceased Vikram, her son was doing a private job at Toll Plaza, Dar Noltha, Tehsil Israna and was getting Rs.10,995/- per month. as salary Besides that he was also earning Rs. 8000 /- per month approximately from agriculture. He was 26 years of age at the time of his death. The Tribunal assessed his monthly income at Rs. 7500/- per month. In this way his annual income comes to (Rs. 7500 x 12) Rs. 90,000/-. Out of that 50% amount was deducted towards his personal expenses. The annual dependency thus comes to (Rs. 90,000/- - Rs. 45,000/-) Rs. 45,000/-. Keeping in view the age of the parents of deceased, multiplier of 14 was adopted. By applying that multiplier, the total amount of compensation comes out to (Rs. 45,000/- x 14) Rs. 6, 30,000/-. Besides this, an amount of Rs. 1,00,000/- was awarded towards loss of love and affection, Rs. 25,000/- towards cost of litigations and Rs. 25,000/- were awarded on account of transportation and funeral ceremony. The total amount of compensation awarded to the claimants thus came to

Rs. 7, 80,000/-.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The compensation awarded by the Tribunal needs to be reassessed in view of the recent five judges' bench judgement of the Supreme Court in the case of **National Insurance Co. Ltd vs Pranay Sethi and others , Special Leave Petition(Civil) No. 25590 OF 2014, decided on 31 October, 2017.** In this case the Supreme Court has held that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. In view of the above cited judgment in the case of Pranay Sethi(supra) and in the case of Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) page 77, the compensation is reassessed as under:-

Sr.No. (i)	HEADS Income	CALCULATIONS Rs.7500/-per month
(ii)	40% of (i) above to be added as future prospects	7500 + 3000= Rs.10,500/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	10,500-5,250= Rs.5250/-
(iv)	Compensation after multiplier of 17 is applied	Rs.5250 x 12 x 17= Rs.10,71,000/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.11,01,000/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.11,01,000-7,80,000/- = Rs. 3,21,000/-

The enhanced amount of compensation of Rs. 3,21,000/- shall carry interest at the rate of 9% p.a. from the date of filing of claim petition till realisation, 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.** The enhanced amount shall be payable within a period of two months from the date of receipt of certified copy of this order. 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

November 14, 2017
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No