

FAO-4918-2015 and  
Cross Objection No.211-CII-2016  
Date of Decision : 13.12.2017

PRTC and another .....Appellants  
versus

Neelam Rani and others ....Respondents

**CORAM : HON'BLE MS. JUSTICE RITU BAHRI**

**Present:** Ms. Amandeep Kaur, Advocate  
for respondents No.1 and 2/cross objectors.

Mr. Anupam Singla, Advocate  
for the appellants.

**RITU BAHRI, JUDGE (ORAL)**

PRTC-appellants has filed this appeal (FAO No.4918 of 2015) against the award dated 08.12.2014 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') whereby compensation of Rs. 10,41,000/- has been awarded in favour of the claimants-respondents No.1 & 2 on account of death of Mohit Kumar in a motor vehicular accident which took place on 30.06.2012. Respondent No.1 is mother and respondent No.2 is father of deceased Mohit Kumar.

Brief facts of the case are that on 30.06.2012, Mohit Kumar (since deceased) was going from Banur to Patiala while sitting in a bus bearing registration No.PB11-P-7406 being driven at a fast speed and in a rash and negligent manner by Jagir Singh. When the bus was reached near village Kauli at about 3:00 PM, it went out of control and turned turtle, as a result of which, Mohit Kumar died at the spot. Consequently, claimants-respondents No.1 & 2 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 Jagir Singh. This finding was rightly given on the

basis of FIR Ex.P64 and postmortem report, Ex.P54. The income was assessed as Rs.6,000/- per month, being that of a unskilled labourer, in addition to 50% increased as future prospects. So, the total income of the deceased was assessed as Rs.9,000/- out of which, 50% amount was deducted towards his personal expenses. The annual dependency of claimants/respondents, thus, came to Rs.4,500 x 12 = 54,000/-. The deceased was 23 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants/respondents were found entitled to compensation of Rs.8,64,000/- (54,000 x 16). In addition to it, Rs.50,000/- were awarded towards loss of love and affection, Rs.25,000/- for funeral expenses and Rs.1,00,000/- towards loss of consortium with costs of Rs.2,000/-. Hence, the claimants were found entitled to a total compensation of Rs.10,41,000/- along with the interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the PRTC-appellants has preferred the present appeal.

During the pendency of appeal, claimants-respondents No.1 & 2 have filed Cross Objection No.211-CII-2016 seeking enhancement of compensation awarded by the Tribunal.

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.

The PRTC-appellants is not challenging the finding on issue no.1 i.e. with respect to the finding that the driver was negligent while driving the vehicle and the accident took place due to rash and negligent driving of PRTC bus driven by Jagir Singh, which resulted into an accident and death of Mohit

Kumar, against whom an FIR No.113 dated 30.06.2012 at Police Station Sadar Patiala was registered. The only ground for challenge is to the quantum.

The accident took place in the year 2012 and this Court is of the view that the income of the unskilled labourer has been rightly taken as Rs.6,000/- . However, keeping in view of the judgments passed by the five judge 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, the compensation requires to be reassessed as under:-

| Sr.No. | HEADS                                                  | CALCULATIONS                            |
|--------|--------------------------------------------------------|-----------------------------------------|
| i      | Income                                                 | Rs.6,000/- per month                    |
| ii     | 40% of (i) to be added as future prospects             | 6000 + 2400 = Rs.8,400/-                |
| iii    | 50% of (ii) above is deducted as his personal expenses | 8400 – 4200 = Rs.4,200/-                |
| iv     | Compensation after multiplier of 18 is applied         | Rs.4,200/- x 12 x 18 =<br>Rs.9,07,200/- |
| v      | Compensation under conventional heads                  | Rs.30,000/-                             |
| vi     | Total compensation awarded                             | Rs.9,37,200/-                           |
| vii    | Modified amount of compensation                        | Rs.9,37,200/-                           |

The modified amount of Rs.9,37,200/- shall be payable, instead the amount of Rs.10,41,000/- awarded by the Tribunal, 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 appeal filed by PRTC is partly allowed.

13.12.2017  
Neha

(RITU BAHRI)  
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No