

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

FAO No.4952 of 2015 (O&M)

Date of decision: 08.12.2017

Rekha and others

....Appellants

Versus

Shakli and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Arjun Atri, Advocate,
for the appellants.

Ms. Vandana Malhotra, 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, Mewat (hereinafter referred to as 'the Tribunal') vide award dated 19.02.2015, on account of death of Ganga Ram in a motor vehicular accident which took place on 03.11.2013. Appellant No. 1 is widow, appellant Nos.2 to 4 are sons and appellant Nos.5 & 6 are parents of deceased Ganga Ram.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.11.2013, Ganga Ram (since deceased) along with one Ram Chander was going towards Tauru on foot for some personal work. At about 11.00 A.M., when they reached on the Pataudi road, a dumper bearing registration No. HR-74-9936 being driven by respondent No.1-Shakli in a rash and negligent manner, came

from behind and hit Ganga Ram, as a result of which, he sustained grievous injuries on his body. Thereafter, Ganga Ram was taken to Life Care Hospital, Tauru, from where he was referred to higher hospital for further treatment, however, he succumbed to the injuries in the midway. After the accident, respondent No.1 fled away from the spot. With regard to the accident, FIR No.434/2013, under Sections 279/304-A IPC was registered against respondent No.1 at the instance of Ram Chander. 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 been caused on account of rash and negligent driving of offending vehicle by respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Ram Chander (PW-2), who was an eye witness of the accident and on whose statement, FIR Ex.P1 was registered.

In the absence of any documentary proof, income of the deceased was taken as Rs.4500/- per month i.e. Rs.54,000/- per annum, out of which, 1/4th amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.40,500/- (Rs.54,000 - 13,500). Deceased-Ganga Ram was 32 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.6,48,000/- (Rs.40,500/- x 16). In addition to it, Rs.20,000/- were awarded towards funeral expenses and loss of consortium etc. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.6,68,000/- along with interest at the rate of 9% per annum

from the date of filing of the claim petition till its realization. Feeling dissatisfied with the impugned award, the claimants-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 (as per minimum wages)	Rs.5500/- per month
(ii)	40% of (i) above to be added as future prospects	5500 + 2200 = Rs.7700/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	7700 – 1925 = Rs.5775/-
(iv)	Compensation after multiplier of 16 is applied	Rs.5775/- x 12 x 16 = Rs.11,08,800/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.11,78,800/-
(vii)	Enhanced amount of compensation	Rs.11,78,800 – 6,68,000 = Rs.5,10,800/-

The enhanced amount of compensation of **Rs.5,10,800/-** 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

08.12.2017
ajp

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