

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

**FAO No.565 of 2015 (O&M)
Date of decision: 17.11.2017**

Om Wati and another

Versus

....Appellants

Manohar Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Malik, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.1535-CII of 2015

In view of the averments mentioned in the application, same is allowed and delay of 168 days in filing the appeal is condoned.

FAO No.565 of 2015

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 04.04.2014, on account of death of Mohar Singh in a motor vehicular accident which took place on 17.06.2012. Appellant No.1 is mother and appellant No.2 is sister of deceased Mohar Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.06.2012, deceased-Mohar Singh (being driver) had gone to Shivalik Cantener Factory, Kheri (HP) for unloading *gatta* in that factory. He parked his truck within the premises of the factory and thereafter, went to sleep on a heap of *bajri*. At about 6.30

A.M., respondent No.1-Manohar Lal started driving a truck bearing registration No. HP-12-A-6634, which had already been parked there, in a rash and negligent manner and run over the same on Mohar Singh, while he was sleeping on the *bajri*. On hearing his cries, a number of persons gathered there and took him to Sneh Hospital, Kala Amb, where he was declared brought dead. After the accident, respondent NO.1 fled from the spot. With regard to the accident, FIR No.125 dated 17.06.2012, under Sections 279/304-A IPC was recorded at Police Station, Nahan, against respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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 truck by driver-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding has been given on the basis of deposition of Salim Khan (PW-4), who was an eye witness of the accident. The deceased was working as driver on a truck. There was no proof with regard to income of deceased. Therefore, his income was taken as Rs.6000/- per month i.e. Rs.72000/- per annum. Out of this, 50% amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.36,000/- per annum. While taking the age of mother (claimant No.1) of deceased as 51 to 55 years, multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.3,96,000/- (Rs.36,000 x 11). In addition to it, Rs.10,000/- were awarded on account of transportation and funeral expenses. Hence, the claimants were found entitled to total compensation of

Rs.4,06,000/- along with interest @ 7.5% per annum from the date of filing of the petition till 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.

Learned counsel for claimant-appellants states that the deceased was 28 years old at the time of death/accident and while assessing the compensation, multiplier of 18 should have been applied by taking into account the age of deceased. However, in the present case, multiplier of 11 has been applied keeping in view the age of his mother, who was aged about 51-55 years. Learned counsel further argued that future prospects should have been added in the income of the deceased.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Hon'ble the Supreme Court, in a number of judgments, has consistently held that if, there are more than one claimants in case of death of a young person, it would not be possible to choose the age of claimant(s) for applying the multiplier. Therefore, the age of deceased has to be taken for the purpose of granting compensation to the claimants. In view of the judgment passed by Hon'ble the Supreme Court in **Reshma Kumari and others Vs. Madan Mohan and another**, 2013 (2) RCR (Civil) 660, in the present case, multiplier of 18 is required to be taken as per the age of deceased-Mohar Singh. Resultantly, 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 **Reshma Kumari's**

case (supra), **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.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	8400 – 4200 = Rs.4200/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4200/- x 12 x 18 = Rs.9,07,200/-
(v)	Compensation under conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,37,200/-
(vii)	Enhanced amount of compensation	Rs.9,37,200 – 4,06,000/-= Rs.5,31,200/-

The enhanced amount of compensation of **Rs.5,31,200/-** 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.

17.11.2017
ajp

(RITU BAHRI)
JUDGE

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