

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

**FAO No.7737 of 2014 (O&M)
Date of decision: 01.12.2017**

Rupinder Kaur and others

....Appellants

Versus

Baljit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.K.S. Phoolka, Advocate,
for the appellants.

Mr. Ajay Singh Rawat, Advocate,
for Mr. Puneet Sharma, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bathinda (hereinafter referred to as 'the Tribunal') vide award dated 26.02.2014, on account of death of Tejwinder Singh in a motor vehicular accident which took place on 07.10.2011. Appellant No.1 is widow, appellant No.2 is daughter and appellant No.3 is son of deceased Tejwinder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.10.2011, Sukhbir Singh and Tejwinder Singh (since deceased) were going from Bathinda to Dabwali in a car bearing registration No.PB-03-Y-6556. When they reached ahead of village Gurusar Saine Wala, a truck bearing registration No. PB-04-D-9840

lights of other vehicle from opposite side, the car of Tejwinder Singh struck against the said truck, as a result of which, both the occupants of the car died at the spot. Consequently, 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 negligent parking of the offending truck. This finding was rightly given on the basis of FIR, Ex.PW4/A and postmortem report, Ex.CW3/A. Since, it was a claim petition under Section 163-A of the Act, the compensation has been assessed as per second schedule provided with the Motor Vehicle Act. Income of the deceased was assessed as Rs.3000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.2000 x 12 = Rs.2400/-. As per postmortem report, Ex.CW3/A, the deceased was 35-36 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.3,84,000/- (24000 x 16). In addition to it, Rs.2000/- were awarded to claimant No.1-Rupinder Kaur towards funeral expenses and Rs.5000/- as loss of consortium. Hence, the claimants were found entitled to a total compensation of Rs.3,91,000/- along with interest @ 7½% per annum from the date of filing of the petition till 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.

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 Constitution Bench of Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) 77, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.3000/- per month
(ii)	40% of (i) above to be added as future prospects	3000 + 1200 = Rs.4200/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	4200 – 1400 = Rs.2800/-
(iv)	Compensation after multiplier of 16 is applied	Rs.2800/- x 12 x 16 = Rs.5,37,600/-
(v)	Compensation under conventional heads (loss of consortium, funeral expenses etc.)	Rs.70,000/-
(xi)	TOTAL COMPENSATION AWARDED	Rs.6,07,600/-
(xii)	Enhanced amount of compensation	Rs.6,07,600 – 3,91,000 = Rs.2,16,600/-

The enhanced amount of compensation of **Rs.2,16,600/-** 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

01.12.2017
ajp

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