

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

FAO No.7950 of 2014 (O&M)

Date of decision: 05.12.2017

Sham Lal Hargun and another

....Appellants

Versus

Amit Handa and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Kumar Sephia, Advocate,
for the appellants.

Ms. Shivali, Advocate,
for respondent Nos.1 and 3.

Mr. R.K. Bashamboo, Advocate,
for respondent No.4-Insurance Company.

RITU BAHRI J. (Oral)

CM No.21408-CII of 2014

For the reasons mentioned in the application, same is allowed and delay of 378 days in filing of the appeal is condoned.

FAO No.7950 of 2014

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 05.04.2013, on account of death of Harsh Hargun in a motor vehicular accident which took place on 09.04.2002. Appellants are parents of deceased Harsh Hargun.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.04.2002, at about 2.30

School, Nurmahal on his side of the road and was waiting for his father. When his father (claimant No.1) came there, an Indica Car bearing registration No.PB-08-AB-1619 being driven by Amit Handa-respondent No.1 in a rash and negligent manner, came from the side of Nurmahal and hit Harsh Hargun, as a result of which, he received multiple injuries and died at the spot. His postmortem was conducted at Civil Hospital, Phillaur. With regard to the incident, FIR No. 58 dated 09.04.2009, under Sections 279/304-A IPC was registered at Police Station, Nurmahal on the statement of Sham Lal Hargun-claimant No.1. Consequently, the claimant-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 taken place on account of rash and negligent driving of offending vehicle by respondent No.1, as a result of which Harsh Hargun has died 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 Sham Lal Hargun (PW-1), who was an eye witness of the accident and on whose statement, FIR Ex.P1 was registered. Further, the claimants have proved on record postmortem report Ex.P2.

In the absence of any documentary proof, notional income of the deceased was assessed as Rs.5000/- per month, out of which, 50% amount was deducted towards his personal expenses, which came to be Rs.2500/- per month i.e. Rs.30,000/- per annum. The deceased was bachelor and at the time of death/accident, he was 14 years, 10 months and 18 days old. Accordingly, multiplier of 15 was applied keeping in view the age of his mother-appellant No.2, who was about 45 years of age at that time. After

applying the multiplier of 15, dependency of claimants came to Rs.4,50,000/- (30,000/- x 15). In addition to it, Rs.15,000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.4,65,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the 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 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	Rs.5000/- per month
(ii)	40% of (i) above to be added as future prospects	5000 + 2000 = Rs.7000/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7000 – 3500 = Rs.3500/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3500/- x 12 x 18 = Rs.7,56,000/-
(v)	Compensation under other heads (funeral expenses etc.)	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.7,86,000/-

(vii)	Enhanced amount of compensation	Rs.7,86,000 – 4,65,000 = Rs.3,21,000/-
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The enhanced amount of compensation of **Rs.3,21,000/-** 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

05.12.2017
ajp

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