

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

**FAO No.7979 of 2014 (O&M)
Date of decision: 21.11.2017**

Smt. Laxmi Devi and others

....Appellants

Versus

Subhash and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Kumar Yadav, Advocate,
for the appellants.

Mr. Vishal Goel, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM Nos.21441-21442-CII of 2014

For the reasons mentioned in the applications, delay in filing
and re-filing of the appeal is condoned.

Misc. applications stand allowed accordingly.

FAO No.7979 of 2014

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Narnaul (hereinafter referred to as 'the Tribunal') vide award dated
30.08.2013, on account of death of Raj Kumar alias Raju alias Surender in a
motor vehicular accident which took place on 08.07.2012. Appellant Nos.1
and 2 are parents and appellant No.3 is brother of deceased Raj Kumar alias
Raju alias Surender.

Brief facts of the case are that on 08.07.2012, Raj Kumar alias Raju alias Surender (since deceased) along with Azad Singh Mor had proceeded from Rohtak to Rajasthan on a truck bearing registration No.HR-46-B-7466 for taking dust. As about 3/3:30 A.M., they reached near Sangam Hotel, little ahead of Bus Stand, Chang Road and parked the truck on left side of the road on *kachcha* berm for taking water and urination. When Azad Singh Mor had alighted from the truck, in the meantime, one truck bearing registration No. HR-69-A-3394 being driven by Subhash-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against truck No.HR-46-B-7466, as a result of which, the said truck was got damaged, Raj Kumar alias Raju alias Surender sustained serious injuries on his person and died on the spot. With regard to the incident, FIR No. 223 dated 08.07.2012, under Sections 279/304-A/427 IPC was registered at Police Station, Sadar Dadri. 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 been caused on account of rash and negligent driving of offending truck by respondent No.1, as a result of which Raj Kumar alias Raju alias Surender 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 Pritam Singh (PW-2), who was an eye witness of the accident. Further, the claimants have proved on record FIR Ex.P1, copy of report under Section 173 Cr.P.C. Ex.P2, certified copy of charge-sheet Ex.P3, certified copy of sapurdari application Ex.P4 etc.

In the absence of any documentary proof, income of the

deceased was assessed as Rs.4500/- per month being a driver, out of which, 50% amount was deducted towards his personal expenses, which came to be Rs.2250/- per month i.e. Rs.27,000/- per annum. The deceased was bachelor at the time of death/accident. Accordingly, multiplier of 14 was applied keeping in view the age of his mother-appellant No.1, who was 45 years of age. After applying the multiplier of 14, dependency of claimants came to Rs.3,78,000/- (27000/- x 14). In addition to it, Rs.10,000/- were awarded on account of love and affection and another Rs.10,000/- on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.3,98,000/- 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.4500/- per month
(ii)	40% of (i) above to be added as future prospects	4500 + 1800 = Rs.6300/-

(iii)	50% of (ii) above is deducted as personal expenses of the deceased	$6300 - 3150 = \text{Rs.}3150/-$
(iv)	Compensation after multiplier of 18 is applied	$\text{Rs.}3150/- \times 12 \times 18 = \text{Rs.}6,80,400/-$
(v)	Funeral expenses and love and affection etc.	$\text{Rs.}30,000/-$
(vi)	TOTAL COMPENSATION AWARDED	$\text{Rs.}7,10,400/-$
(vii)	Enhanced amount of compensation	$\text{Rs.}7,10,400 - 3,98,000 = \text{Rs.}3,12,400/-$

The enhanced amount of compensation of **Rs.3,12,400/-** 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

21.11.2017

ajp

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