

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

**FAO No.2655 of 2017 (O&M)
Date of decision: 02.12.2017**

Smt. Usha

....Appellant

Versus

Shamsher (deceased) through LR's and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harish Nain, Advocate, for the appellant.

Mr. Lalit Garg, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') vide award dated 08.11.2016, on account of death of Kuldeep in a motor vehicular accident which took place on 13.09.2014. Appellant is mother of deceased Kuldeep.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.09.2014, Kuldeep (since deceased) was boarding a truck bearing registration No. HR-56-A-1647 as cleaner. The said truck was being driven by Lal Singh. When the said truck reached near Bus-Stand, Jewandesar at Highway road, Kishangarh, another truck bearing registration No. HR-64-5310 being driven by Shamsher respondent No.1 (since deceased through LR's.) in a rash and negligent manner, came from the opposite side and struck against the truck of

Kuldeep, as a result of which, he (Kuldeep) and Lal Singh received multiple grievous injuries and died at the spot. With regard to the incident, FIR No. 428 dated 13.09.2014, under Sections 279/304-A IPC was registered at Police Station, Sardarsahar against respondent No.1 on the statement of Vikas Kumar. Consequently, the claimant-appellant 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 Kuldeep has died and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of the fact that after the accident, FIR Ex.P1 was registered against respondent No.1. Further report under Section 173 Cr.P.C. has been proved as Ex.P2 and charge sheet as Ex.P3.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8000/- per month as that of a casual labourer, out of which, 50% amount was deducted towards his personal expenses. The deceased was 19 years of age at the time of accident/death. He was a bachelor. After applying the multiplier of 17, dependency of the claimant came to be Rs.8,16,000/- (48,000/- x 12 x 17). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, loss of estate, conveyance charges etc. and Rs.50,000/- were awarded towards loss of love and affection. Hence, the claimant was found entitled to total compensation of Rs.8,91,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award,

the claimant-appellant has 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.8000/- per month
(ii)	40% of (i) above to be added as future prospects	8000 + 3200 = Rs.11,200/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	11,200 – 5600 = Rs.5600/-
(iv)	Compensation after multiplier of 17 is applied	Rs.5600/- x 12 x 17 = Rs.11,42,400/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.11,57,400/-
(vii)	Enhanced amount of compensation	Rs.11,57,400 – 8,91,000 = Rs.2,66,400/-

The enhanced amount of compensation of **Rs.2,66,400/-** 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

02.12.2017
ajp

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