

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

**FAO No.1110 of 2001 (O&M)
Date of decision: 22.05.2018**

Rajender Parsad and others

....Appellants

Versus

Rajender Parsad and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.C. Pathela, Advocate,
for the appellants.

Mr. Vinod Chaudhary, Advocate,
for respondent No.2-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, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 14.12.2000, on account of death of Suman Devi in a motor vehicular accident which took place on 26.08.1999. Claimant-appellants are husband, children and mother-in-law of deceased Suman Devi.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.08.1999, Ramphal, his wife Smt. Guddi, Suman (since deceased), her son Mintu alias Gaurav, Baru Ram and other passengers were travelling in a bus bearing registration No. RJ-31-P-0554 from Barwala to Uklana. The said bus was being driven by Rajinder Parsad-respondent No.1 in a rash and negligent manner at a high

speed. He was requested to slow down the speed of bus, but to no avail. After covering some distance, on account of high speed, the bus turned turtle, as a result of which, Ramphal, his wife Smt. Guddi and Mintu alias Gaurav received multiple injuries, whereas Smt. Suman and Baru Ram died at the spot. With regard to the accident, FIR Ex.PB was registered against respondent No.1 at Police Station, Barwala on the statement of Roshan Lal. 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 Smt. Suman & Baru Ram had died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of statements made by witnesses of the claimants.

As per deposition of Rajinder Parsad (PW-6), his wife namely Suman (since deceased) was an instructor in painting and was running a training school in the name and style of Arya Kala Kender, Barwala. In the absence of any documentary proof, income of the deceased was assessed as Rs.2500/- per month i.e. Rs.30,000/- per annum. Out of this, 1/3rd amount was deducted towards personal expenses of the deceased, which came to Rs.20,000/- per annum (30,000 – 10,000). the deceased was 26 years of age at the time of accident/death. Multiplier of 16 was applied by the Tribunal. After applying the multiplier of 16, dependency of claimants (appellants) came to Rs.3,20,000/- (20,000 x 16). Hence, appellant-claimants were found entitled to total compensation of Rs.3,20,000/-. 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. Parties are not in dispute with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1. 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.2500/- per month
(ii)	40% of (i) above to be added as future prospects	2500 + 1000 = Rs.3500/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	3500 – 1166 = Rs.2334/-
(iv)	Compensation after multiplier of 17 is applied	Rs.2334/- x 12 x 17 = Rs.4,76,136/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.5,46,136/-
(vii)	Enhanced amount of compensation	Rs.5,46,136 – 3,20,000 = Rs.2,26,136/-

The enhanced amount of compensation of **Rs.2,26,136/-** 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 @ 7.5% 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 "**Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others**, Civil Appeal No.448 of 2018 (decided on 19.01.2018). 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

22.05.2018
ajp

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