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

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**(205)**

**FAO No.1218 of 2001**
**Date of Decision:04.04.2018**

**Smt. Swaran Kaur alias Amarjit Kaur and others** **.....Appellants**

**Vs.**

**Leela Singh and others** **.....Respondents**

**CORAM:- HON'BLE MS. JUSTICE RITU BAHRI**

Present:- Mr. Vipul Sharma, Advocate for
Mr. D.S. Pheruman, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate for
respondent No.3.

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**RITU BAHRI, J.** (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal') vide award dated 13.08.1999 on account of death of Sardul Singh in a road accident which took place on 03.10.1994. Appellant No.1 is widow, appellant Nos.2 & 3 are daughters and appellant No.4 is son of deceased Sardul Singh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 03.10.1994, Sardul Singh (since deceased) was travelling in bus bearing No.PB-13-B-8325 to go to Sarhail. Due to rash and negligent driving of Leela Singh- respondent No.1, driver of the bus, the accident took place. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

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**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 vehicle i.e. bus by its driver respondent No.1 and returned finding on issue No.1 in favour of the claimants. This finding was rightly given. The parties are not in dispute with respect to finding of Issue No.1 and the driver faced the criminal trial as well. The FIR was registered as Ex.A9. Ahlmad appeared as AW2 and deposed that Leela Singh was facing the trial, he has brought the criminal record and proved the proceedings carried out by the police authorities. Further the claimants have proved pay certificate Ex.A1 and search memo, copy of recovery, identification memos Ex.A2 to Ex.A6.

The income of the deceased was assessed as ₹3488/- per month being a Field Officer, Markfed, out of which, 1/3rd amount was deducted towards his personal expenses, which came to be ₹2326/- per month (3488 – 1162) i.e. ₹27,912/- per annum. The deceased was 50 years of age at the time of death/accident. Accordingly, multiplier of 8 was applied, whereupon dependency of claimants came to ₹2,23,296/- (27,912 x 8). In addition to it, ₹10,000/- was awarded on account of funeral expenses. Hence, claimants were found entitled to total compensation of ₹2,33,296/- along with interest @ 12% 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

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that the deceased has died as a result of the accident. Finding of negligence has rightly been given by the Tribunal and no interference is required on that account.

The Tribunal has absolved the Insurance Company from making the payment of compensation as the driving licence was a fake driving licence. As per the statement of RW1 Mohammad Nasar, Leela Singh was holding a valid driving licence. However, keeping in view the judgment of the Supreme Court in **National Insurance Co. Ltd. v. Swaran Singh and others, 2004(3) SCC 297,** the Insurance Company will make the payment to the claimants and, thereafter, recover it from the owner and driver, the finding on Issue No.3 is being modified to the extent that the Insurance Company will make the payment to the claimants and recover it from the driver and owner.

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 | ₹3488/- per month |
| (ii) | 15% of (i) above to be added as future prospects | 3488 + 523 = 4011 |
| (iii) | 1/4th of (ii) above is deducted as personal expenses of the deceased | 4011 -1002 = 3009 |
| (iv) | Compensation after multiplier of 13 is applied | 3009 x 12 x 3 = ₹4,69,404/- |
| (vi) | Compensation under conventional heads | ₹70,000/- |
| (vi) | Total Compensation Awarded | ₹5,39,404/- |

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| Sr. No. | HEADS | CALCULATIONS |
|---|---|---|
| (vii) | Enhanced amount of compensation | ₹5,39,404/- - 2,33,296/- = ₹3,06,108/- |

The enhanced amount of compensation of ₹3,06,108/- 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.

**April 04, 2018** **( RITU BAHRI )**
**renu** **JUDGE**

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No

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