

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

**FAO No.1223 of 2001 (O&M)
Date of decision: 22.02.2018**

Smt. Khazani Devi and another

....Appellants

Versus

Satbir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.S. Pawar, Advocate,
for the appellants.

Mr. K.S. Khaira, Advocate,
for Mr. Vaibhav Jain, Advocate,
for respondent Nos.1 and 2.

Mr. G.D. Gupta, Advocate,
for respondent No.3-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, Jhajjar (hereinafter referred to as 'the Tribunal') vide award dated 20.10.2000, on account of death of Rajesh in a motor vehicular accident which took place on 10.06.1997. Appellants are parents of deceased Rajesh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.06.1997, Rajesh (since deceased), in the capacity of driver on canter No. HR-39-4316 was on way to Delhi from Jaipur along with one Sandeep. When they reached near village Asalwas on Delhi-Jaipur highway, a truck bearing registration No.

negligent manner, came from the opposite side and struck against the canter, as a result of which, Rajesh received injuries and died. With regard to the incident, FIR Ex.PA was registered against respondent 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 Rjesh 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 the deposition of Sandeep (PW-2), who was an eye witness of the accident and on whose statement, FIR Ex.PA was registered. Further, the claimants have proved on record copy of postmortem report, Ex.PB.

In the absence of any documentary proof, income of the deceased was assessed as Rs.1800/- per month. Out of this, 1/3rd amount was deducted towards personal expenses of the deceased and dependency of claimants came to Rs.1200/- per month i.e. Rs.14,400/- per annum. The deceased was 29 years of age at the time of accident/death. He was a bachelor. Tribunal has applied the multiplier of 08 keeping in view the age of Sarup Singh (father), who was stated to be of 60 years. The dependency of claimants came to Rs.1,15,200/- (14,400/- x 08). Hence, the claimants were found entitled to total compensation of Rs.1,15,200/- 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.

Learned counsel for the appellants has argued that the deceased

was 29 years of age at the time of death/accident, therefore, multiplier should have been applied keeping in view the age of deceased, whereas, the Tribunal has applied the multiplier of 08 keeping in view the age of his father.

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 this case, the Tribunal has wrongly applied the multiplier of 08 keeping in view the age of father of deceased. In view of the age of deceased, the multiplier of 17 should have been applied while assessing the compensation. 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.1800/- per month
(ii)	40% of (i) above to be added as future prospects	1800 + 720 = Rs.2520/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	2520 – 1260 = Rs.1260/-
(iv)	Compensation after multiplier of 17 is applied	Rs.1260/- x 12 x 17 = Rs.2,57,040/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.2,87,040/-

(vii)	Enhanced amount of compensation	Rs.2,87,040 – 1,15,200 = Rs.1,71,840/-
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The enhanced amount of compensation of **Rs.1,71,840/-** 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. It is made clear that initially, the compensation shall be paid by the insurance company (respondent No.3) and thereafter, it can recover the same from respondent Nos. 1 and 2.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

22.02.2018
ajp

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