

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

**CM No.11751-CII of 2016 in/and
FAO No.1147 of 2003 (O&M)
Date of decision: 07.05.2018**

Ram Singh and another

....Appellants

Versus

Bhupinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Kiranjeet Kaur, Advocate,
Mr. Rajender Singh Malik, Advocate,
for the appellants.

Mr. Vishal Nehra, Advocate,
for respondent No.1.

RITU BAHRI J. (Oral)

CM No.11751-CII of 2016

In view of the averments mentioned in the application, same is allowed and the main appeal i.e. FAO No.1147 of 2003 is taken up today itself for disposal.

FAO No.1147 of 2003

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal') vide award dated 11.01.2003, on account of death of Arun Malik in a motor vehicular accident which took place on 23.06.2001. Appellants are parents of

deceased Arun Malik.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.06.2001, Arun Malik (since deceased) along with his friend Vipin Gangal was going from his office i.e. Web Pulse Consulting Greater Kailash, New Delhi on a motorcycle bearing registration No. DL-3-SM-5157. At about 8.45 A.M., when he reached at Mathura Road, near Modi Flyover in the area of Priyanka Camp, a truck (Dumper) bearing registration No. DL-IGA-1643, being driven by respondent No.1-Bhupinder Singh in a rash and negligent manner, came from behind at a very fast speed and struck against the motorcycle, as a result of which, Arun Malik and his friend Vipin Gangal fell down on the road. Thereafter, the said truck ran over Arun Malik and crushed him. He was taken to Apollo Hospital, New Delhi, where he succumbed to the injuries. With regard to the accident, FIR No.355 , under Sections 279/337/304-A IPC was registered against respondent No.1 at Police Station, New Friends' Colony, New Delhi. 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 Arun Malik 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 Vipin Gangal (PW-2), who was an eye witness of the accident and on whose statement, the FIR Ex.P-2 was registered.

The Tribunal has observed that the deceased was employed in Daewoo Motors Limited and was getting salary of Rs.16,000/- per month,

besides enjoying various perks and allowances. Accordingly, salary of the deceased was taken as Rs.24,000/- per month. Out of this, 1/3rd amount was deducted towards personal expenses of the deceased, which came to Rs.15,000/- per month. The deceased was 27 years of age at the time of accident/death. The Tribunal by taking into account the age of claimants was 59 years and 53 years, their financial status, social set-up in the society and the fact that they own a house and draw a pension of Rs.9500/- per annum, held that the deceased at least, would have contributed Rs.4000/- per month i.e. Rs.48,000/- per annum, had he not died in the accident. In this amount, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants (appellants) came to Rs.7,68,000/- (48,000 x 16). Hence, appellant-claimants were found entitled to total compensation of Rs.7,68,000/- 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. 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.24,000/- per month
(ii)	40% of (i) above to be added as future prospects	24,000 + 9600 = Rs.33,600/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	33,600 – 16,800 = Rs.16,800/-
(iv)	Compensation after multiplier of 17 is applied	Rs.16,800/- x 12 x 17 = Rs.34,27,200/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.34,57,200/-
(vii)	Enhanced amount of compensation	Rs.34,57,200 – 7,68,000 = Rs.26,89,200/-

The enhanced amount of compensation of **Rs.26,89,200/-** 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.

07.05.2018
ajp

(RITU BAHRI)
JUDGE