

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

FAO No. 2967 of 2001

Date of decision:- 22.02.2018

Smt. Roshani and Others

...Appellants

Versus

Vijay Singh and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Ghanghas, Advocate,
for the appellants.

Mr. D. K. Dogra, Advocate,
for respondent No. 3-Insurance Company Limited.

RITU BAHRI J. (Oral)

The present appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide Award dated 14.01.2000, on account of death of Rishal Singh in a motor vehicular accident which took place on 23.06.1998.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 23.06.1988 at about 10.30 P.M., Sher Singh along with his brother Rishal Singh had come in the cattle fair at Dadri town for selling of cows and calves. In the evening time after taking the meal, Rishal Singh had slept on the cot near the water-course. Whereas, Sher Singh along with Deep Kumar etc., was sitting on a separate cot, at about 10.30 P. M. a truck bearing No. HR-46-1056 being driven by respondent No. 1 Vijay Kumar in a rash and negligent manner had come there. The Said truck was in fact, being reversed without taking any care in

the back side. Thus, the said truck had struck against the cot of Rishal Singh from its back side, in fact, he was crushed there and then. However, after the accident, he was immediately referred to General Hospital, Dadri, where he was declared dead. In this matter, FIR Ex. P1 was recorded on 24.06.1998 at Police Station Dadri, under Sections 279/304A of Indian Penal Code, against respondent No. 1-Vijay Singh. Consequently, Claimants filed the 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 respondent No.1 while driving offending vehicle. Claimants submits that at the time of accident, deceased was 30 years of age. He was doing a business of purchasing and selling of cows and calves and used to earn Rs.8,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. No income proof has been found hence Tribunal took income of the deceased Rishal Singh as @ Rs.1,800/- per month being a unskilled labourer. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.1,800/- per month
(ii)	1/3 rd deducted towards personal expenses	Rs.1,800-600=1,200/- P.M.(14,400)
(iii)	After applying appropriate multiplier by the Tribunal amount of compensations comes to	Rs.1,72,000/- P.A.
	Total Compensation Awarded	Rs.1,72,000/-(rounded figure Rs.1,75,000/-)

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)*, and reassessed amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.1800/- per month
(ii)	1/4 th deducted towards personal expenses	Rs.1800-450=1,350/- P.M.
(iii)	40% added towards future prospects	Rs.1350+540=1890/-
(iv)	Multiplier applied	Rs.1890X12X17=3,85,560/-
(V)	Compensation towards conventional heads	Rs.70,000/-
	Total Compensation Awarded	Rs.4,55,560/-
	Enhanced amount of compensation	Rs. 4,55,560-1,75,000=2,80,560/-

The enhanced amount of compensation of **Rs.2,80,560** /- shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case *Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018* the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

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.

22.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>