

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

**CM Nos.20340-20341-CII of 2001 in/and
FAO No.3749 of 2001
Date of decision: 01.03.2018**

Smt. Nirmal Kaur

....Appellant

Versus

Sukhvinder and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellant.

Mr. Neeraj Khanna, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM Nos.20340-20341-CII of 2001

For the reasons mentioned in the applications, same are allowed
and delay in filing and re-filing of the appeal is condoned.

FAO No.3749 of 2001

This appeal has been filed by the claimant-appellant seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated
08.03.1999 on account of death of Daljit Singh in a motor vehicular
accident which took place on 06.12.1995. Appellant is mother of deceased
Daljit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.12.1995, Daljit Singh
(since deceased) along with his two companions was coming from Sohna

towards Delhi on a motorcycle bearing registration No.DL-4-S-9126. At about 4.30 A.M., when they reached near crusher zone turning on Sohna-Gurgaon road, a truck bearing registration No.DHL-5460, being driven by respondent No.1-Sukhvinder in a rash and negligent manner, came from the side of Gurgaon and struck against the motorcycle, as a result of which, all the occupants of motorcycle, including Daljit Singh, received multiple and grievous injuries. Later on, Daljit Singh succumbed to the injuries. With regard to the incident, FIR No.316 dated 06.12.1995, under Sections 279/337/304-A IPC was registered against respondent No.1. Consequently, the claimant-appellant 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 the offending vehicle by its driver i.e. respondent No.1-Sukhvinder and thus, returned finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Bhagmal (PW-3), who was eye witnesses of the accident. Claimant has also proved on record copy of FIR Ex.PG.

In the absence of any documentary proof, income of the deceased was assessed as Rs.1800/- per month, out of which, an amount of Rs.800/- was deducted towards his personal expenses as he was unmarried. By doing so, remaining amount came to be Rs.1000/- per month. The deceased was 23 years of age at the time of death/accident. Multiplier of 09 was applied by the Tribunal. After applying the multiplier of 09, dependency of claimant came to Rs.1,08,000/- (1000/- x 12 x 09). In addition to it, Rs.12000/- were awarded on account of treatment, medicines

etc. Hence, the claimant was found entitled to total compensation of Rs.1,20,000/- along with interest @ 12% 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 regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of 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.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 18 is applied	Rs.1260/- x 12 x 18 = Rs.2,72,160/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.3,02,160/-

(vii)	Enhanced amount of compensation	Rs.3,02,160 – 1,20,000 = Rs.1,82,160/-
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The enhanced amount of compensation of **Rs.1,82,160/-** 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 (arising out of SLP (C) No.26853 of 2016) 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

01.03.2018
ajp

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