

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

FAO No.4446 of 2001 (O&M)

Date of decision: 15.01.2018

Bachhan Singh and another

....Appellants

Versus

Mohammad Abbas and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Jasuja, Advocate,
for the appellants.

Mr. Vinod 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, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 17.01.2001, on account of death of Tej Pal in a motor vehicular accident which took place on 27.02.1997. Appellants are parents of deceased Tej Pal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.02.1997, Tej Pal (since deceased) along with other persons was going towards Haily Mandi in a Tempo, which was being driven by Vijender Singh. When they reached near Hanumat Wali Kui on Kulana-Pataudi road, a truck bearing registration No. HR-38-A-2315 being driven by Mohammad Abbad-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the tempo, as a result of which, Tej Pal, Ishwar, Ashok, Vijender, Jai Pal, Sunil and Sat Narain (occupants of the tempo) received injuries and died. Smt. Munish and Sukhbir received injuries. With regard to the incident, FIR

at Police Station, Pataudi 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 the offending vehicle by its driver-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Geeta (PW-1), Kamla (PW-2), Beena (PW-3), Santosh (PW-4), Bachan Singh (PW-5), Sukhbir (PW-6) and Kanwar Pal, eye witness (PW-7). Claimants have also proved FIR Ex.P1 and postmortem report of the deceased.

In the absence of any documentary proof, income of the deceased was assessed as Rs.1500/- per month as that of a casual labourer, out of which, 1/3rd amount was deducted towards his personal expenses. Dependency of claimants came to Rs.1000/- per month. The deceased was 22-23 years of age and was bachelor at the time of death/accident. The Tribunal has further observed that the deceased would have been married in due course. After marriage, his contribution towards claimants-appellants (parents) at the rate of Rs.1000/- per month would not be possible as the substantial amount would be diverted for the maintenance of his own family and the claimants could only expect to the contribution of Rs.500/- per month for the rest of the years. Accordingly, the Tribunal has applied two multipliers. The first multiplier of 4 was applied on the amount of Rs.1000/- per month and the second multiplier of 12 was applied at the rate of Rs.500/- per month. The compensation was assessed as under:-

1	Monthly income income	Rs.1500/-
2	Deduction of 1/3 rd on personal maintenance and keep up expenses.	Rs.500/-
3	Total dependency	Rs.1000/-
4	Annual dependency	Rs.12,000/-
5	Multiplier of 4 at the rate of Rs.12,000/-	Rs.48,000/-
6	Multiplier of 12 at the rate of Rs.500/- per month i.e. Rs.6000/- per annum	Rs.72,000/-
7	Expenses on last rites	Rs.5000/-
	Total amount	Rs.1,25,000/-

Hence, the claimants were found entitled to total compensation of Rs.1,25,000/- Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

REASSESSED COMPENSATION

Learned counsel for the appellants has referred to the trade certificate Ex.P18 to show that deceased (son of appellants) was a highly skilled technician and his income taken at the rate of Rs.1500/- per month, is on the lower side.

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. As per minimum wages in State of Haryana, a highly skilled labourer was getting Rs.1437/- per month in the year 1995. In the present case, the accident had taken place in the year 1997. Accordingly, income of the deceased in the year 1997 can be taken as Rs.2000/- per month. 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.2000/- per month
(ii)	40% of (i) above to be added as future prospects	2000 + 800 = Rs.2800/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	2800 – 1400 = Rs.1400/-
(iv)	Compensation after multiplier of 18 is applied	Rs.1400/- x 12 x 18 = Rs.3,02,400/-
(v)	Compensation under conventional heads i.e. funeral expenses etc.	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.3,32,400/-
(vii)	Enhanced amount of compensation	Rs.3,32,400 – 1,25,000 = Rs.2,07,400/-

The enhanced amount of compensation of **Rs.2,07,400/-** 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. 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

15.01.2018
ajp

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