

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

**CM Nos.5589-5590-CII of 2001 in/and
FAO No.919 of 2001
Date of decision: 01.03.2018**

Simranjit Kaur and others

....Appellants

Versus

Sukhbir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Lalit Singla, Advocate,
for the appellants.

Mr. Vipul, Advocate,
for Mr. Navin Kapur, Advocate,
for respondent No.3-Insurance Company.

Mr. Neeraj Khanna, Advocate,
for Mr. Ravinder Arora, Advocate,
for respondent No.6-Insurance Company.

RITU BAHRI J. (Oral)

CM Nos.5589-5590-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.919 of 2001

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Patiala (hereinafter referred to as 'the Tribunal') vide award dated
11.04.2000 on account of death of Gurnam Singh in a motor vehicular
accident which took place on 09.09.1997. Appellant No.1 is widow,
appellant Nos.2 to 5 are children and appellant No.6 is father of deceased
Gurnam Singh.

(since deceased) along with other devotees were coming from Manikaran Sahib Gurudwara after paying obeisance in a truck bearing registration No. PB-11-A-7825. The said truck stopped functioning and after parking the same on one side, all the devotees came towards Gurudwara Mandi and stayed for the night there. On 09.09.1997, a mechanic was brought for repairing the said truck. The conductor of the said truck namely Sewa Singh, Harbhajan Singh, Sikha Singh, Dalbir Singh, Gurnam Singh and other persons were standing near the truck along with mechanic for getting the same repaired. Gurnam Singh was sitting in front of the truck. In the meantime, a truck bearing registration No.PJD-2925 being driven by Sukhbir Singh-respondent No.1 in a rash and negligent manner, came and hit the aforesaid truck (No.PB-11-A-7825) from backside, as a result of which, Gurnam Singh was crushed underneath the truck and received multiple injuries. Dalbir Singh also suffered injuries along with conductor of the truck. All the three injured were taken to Civil Hospital, Mandi. However, Gurnam Singh succumbed to the injuries. With regard to the incident, FIR No.448 dated 09.09.1997 was registered by the local police. 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 i.e. respondent No.1-Sukhbir Singh. This finding was rightly given on the basis of deposition of Surat Singh (PW-2), Sadha Singh (PW-4) and Surjit Singh (PW-5). Claimants have also proved on record copy FIR Ex.A1 and postmortem

report of deceased as Ex.A2.

In the absence of any documentary proof, income of the deceased was assessed as Rs.3000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.2000/- per month i.e. Rs.24,000/- per annum. As per postmortem report, deceased was 36 years of age at the time of death/accident. Accordingly, multiplier of 15 was applied. After applying the multiplier of 15, dependency of claimants came to Rs.3,60,000/- (24,000/- x 15). In addition to it, Rs.5000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.3,65,000/-. Feeling dissatisfied with the impugned award, the claimant-appellants have 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.3000/- per month
(ii)	40% of (i) above to be added as future prospects	3000 + 1200 = Rs.4200/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	4200 – 1050 = Rs.3150/-
(iv)	Compensation after multiplier of 15 is applied	Rs.3150/- x 12 x 15 = Rs.5,67,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.6,37,000/-
(vii)	Enhanced amount of compensation	Rs.6,37,000 – 3,65,000 = Rs.2,72,000/-

The enhanced amount of compensation of **Rs.2,72,000/-** 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