

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

**FAO No.212 of 2004
Date of decision: 06.03.2018**

Chetan Dass and another

....Appellants

Versus

Sube Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 18.10.2003 on account of death of Devender in a motor vehicular accident which took place on 07.07.2002. Appellants are parents of deceased Devender.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.07.2002, Devender (since deceased) along with Anil Kumar was going from Karnal to Panipat on his motorcycle bearing registration No. HR-06-E-8777. Anil Kumar was driving the said motorcycle. When they reached near Bastara Chowk, Madhuban, a vehicle bearing registration No. HR-35-B-4444 being driven by Sube Singh-respondent No.1 in a rash and negligent manner, came from the side of Karnal and struck against his motorcycle, as a result of which,

both the occupants namely Devender and Anil Kumar received injuries and died on the spot. With regard to the incident, FIR Ex.P3 was registered 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 been caused on account of rash and negligent driving of the offending vehicle, which resulted into the death of Devender and Anil. This finding was rightly given on the basis of deposition of Sunil Kumar Rana (PW-1), who was eye witnesses of the accident. Further the claimants have proved copy of FIR Ex.3, copy of final report under Section 173 Cr.P.C. Ex.P4 and attested copies of postmortem reports Ex.P5 and Ex.P6.

In the absence of any convincing documentary proof, income of the deceased was assessed as Rs.2500/- per month i.e. Rs.30,000/- per annum, out of which, one half amount was deducted towards his personal expenses, which came to be Rs.15,000/- per annum. As per postmortem report, deceased was 17 years of age at the time of death/accident. Accordingly, multiplier of 11 was applied keeping in view the age of his parents. After applying the multiplier of 11, dependency of claimants came to Rs.1,65,000/- (15,000/- x 11). In addition to it, Rs.5,000/- were awarded on account of transportation & last rites. Hence, the claimants were found entitled to total compensation of Rs.1,70,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. Reference at this stage, can be made to a judgment passed in Kishan Gopal and another Vs. Lal and others, 2013 (4) RCR (Civil) 276, wherein appellant-claimants were parents of ten year old child, who died in a road accident, which took place on 19.07.1992. Notional income of deceased-child was taken at Rs.30,000/- and multiplier of 15 was applied. 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 Kishan Gopal's case (supra), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Notional Income	Rs.30,000/-
(ii)	Compensation after multiplier of 11 is applied	Rs.30,000 x 11 = Rs.3,30,000/-
(iii)	Compensation on account of transportation and last rites	Rs.5,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.3,35,000/-
(v)	Enhanced amount of compensation	Rs.3,35,000 – 1,70,000= Rs.1,65,000/-

The enhanced amount of compensation of Rs.1,65,000/- 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 (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

06.03.2018
ajp

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