

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

**CM No.20154-CII of 2017 in/and
FAO No.794 of 2004
Date of decision: 19.03.2018**

Surinder Kaur and others

....Appellants

Versus

Bant Khan and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. N.S. Dadwal, Advocate,
for respondent Nos.1 and 2.

Mr. R.N. Singal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.20154-CII of 2017

For the reasons mentioned in the application, same is allowed and the main appeal i.e. FAO No.794 of 2004 is taken up today itself for its disposal.

FAO No.794 of 2004

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 15.11.2003 on account of death of Prem Chand @ Prem Singh in a motor vehicular accident which took place on 28.02.2002. Appellant No.1 is

widow and appellant Nos.2 to 6 are children of deceased Prem Chand @

Prem Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.02.2002, Prem Chand @ Prem Sing (since deceased) along with Tara Singh Bhatti was going from Kharar to Kurali on a motorcycle bearing registration No. PB-12-E-3397. Said motorcycle was being driven by Prem Chand @ Prem Singh, whereas Tara Singh Bhatti was a pillion rider. When they reached near village Chananion, a truck bearing registration No. HR-45-2063, being driven by respondent No.1-Bant Khan in a rash and negligent manner, came from the side of Kurali and struck against the motorcycle, as a result of which both the occupants of the motorcycle received injuries. They were taken to the hospital, but they succumbed to the injuries in the way to hospital. With regard to the incident, FIR No.127 dated 28.08.2002, under Sections 279/304-A IPC was registered at Police Station, Kurali 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 i.e. respondent No.1-Bant Khan. This finding was rightly given on the basis of deposition of Jaswinder Singh (PW-5), who was eye witness of the accident. Claimants have also proved on record copy postmortem report of deceased Tara Singh Bhatti and Prem Chand @ Prem Singh as Ex.P3 & Ex.P5 respectively.

Deceased-Prem Chand was posted as Surveyor in Soil Conservation Department, Punjab and as per salary certificate Ex.P2, his

monthly income, including basic pay, dearness allowance, house rent allowance etc., was Rs.13,773/-. After deducting few allowances and income tax of Rs.700/- per month, monthly income of deceased was taken as Rs.12,800/- per month. Out of this, 1/4th amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.9000/- per month i.e. Rs.1,08,000/- per annum. As per postmortem report, deceased was 48 years of age at the time of death/accident. The Tribunal has applied the multiplier of 11. After applying the multiplier of 11, dependency of claimants came to Rs.11,88,000/- (1,08,000/- x 11). In addition to it, Rs.12,000/- were awarded to claimant No.1 as loss of consortium and Rs.10,000/- as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.12,10,000/- along with interest at the rate of 9% per annum from the date of filing of claim petition till its 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. 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. As per salary certificate Ex.P2, income of the deceased was Rs.13,773/- per month. After deducting income tax of Rs.700/-, remaining amount comes to Rs.13,073/- per month.

Accordingly, income of the deceased is being taken as Rs.13,073/- 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.13,073/- per month
(ii)	30% of (i) above to be added as future prospects	13,073 + 3921 = Rs.16,994/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	16,994 – 4248 = Rs.12,746/-
(iv)	Compensation after multiplier of 13 is applied	Rs.12,746/- x 12 x 13 = Rs.19,88,376/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.20,58,376/-
(vii)	Enhanced amount of compensation	Rs.20,58,376 – 12,10,000 = Rs.8,48,376/-

The enhanced amount of compensation of **Rs.8,48,376/-** 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.” Enhanced

amount be released in favour of all the claimants, as they have attained

majority. 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

19.03.2018
ajp

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