

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

**FAO No.4949 of 2003 (O&M)
Date of decision: 06.03.2018**

Surjit Singh & another

....Appellants

Versus

National Insurance Company & others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naresh Prabhakar, Advocate,
for the appellants.

Mr. Paul S. Saini, Advocate,
for respondent No.1-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, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 16.12.2002 on account of death of Jagdip Singh in a motor vehicular accident which took place on 28.09.1997. Appellants are parents of deceased Jagdip Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.09.1997, at about 7.15 P.M., Harpreet Singh alongwith his friend Shamsher Singh was going on a scooter. When they reached near Shimlapuri Canal, Jagdeep Singh met them near the bridge. He was on his own scooter. Thereafter, they all were going on their respective scooters on the Gill Road. Jagdip Singh was going

ahead from the scooter of Harpreet Singh. When they reached near Arora Palace, a tractor-trolley, without number (Model 364), being driven by Jagjit Singh-respondent No.3 (respondent No.1 in claim petition) in a rash and negligent manner came and struck against the scooter of Jagdip Singh, as a result of which, the tractor-trolley passed over the stomach of Jagdip. Due to the impact of accident, Jagdip became unconscious. He was got admitted in CMC Hospital, Ludhiana, where he succumbed to the injuries on 02.10.1997. With regard to the incident, FIR No.231/97, Ex.P1, was registered at Police Station, Division No.6, Ludhiana against the driver of offending vehicle. 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 offending vehicle i.e. tractor-trolley by its driver-Jagjit Singh and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Shamsheer Singh (PW-4), who was eye witnesses of the accident. Further the claimants have proved copy of FIR Ex.P1 and postmortem report of deceased as Ex.P4.

In the absence of any documentary proof, income of the deceased was assessed as Rs.2000/- per month, out of which, Rs.600/- were deducted towards his personal expenses, which came to be Rs.1400/- per month. The deceased was 22 years of age at the time of death/accident. The Tribunal has held that he might have been married in near future and in that eventuality, he was to have his own family to maintain. Accordingly, for a period of three years, the claimants were granted compensation as under:-

Rs.1400 x 12 x 3 = Rs.50,400/-

The Tribunal has further observed that dependency of the claimants was to be decreased from the very moment, he was married. Accordingly, after applying the multiplier of 7, further compensation was assessed as under:-

Rs.800 x 12 x 7 = Rs.67,200/-.

In addition to it, Rs.25,229/- were awarded on account of expenses incurred on medical treatment of deceased. Hence, claimants were found entitled to total compensation of Rs.1,42,830/- (Rs.50,400/- + Rs.67,200/- + Rs.25,230/-.) along with interest @ 6% 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

Learned counsel for claimants-appellants states that while assessing income of the deceased, salary certificate Ex.PW3/1, has wrongly been discarded by the Tribunal. Deceased was working as Assistant Manager in a private company and was getting salary to the tune of Rs.5000/- per month.

Having considered the argument of learned counsel for the appellant, this Court is of the view that above said salary certificate has

been rightly rejected by the Tribunal, as no one from the company had come to prove the same. Income of the deceased has been rightly taken as Rs.2000/- per month. However, 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 on account of medical treatment of deceased	Rs.25,230/-
(vi)	Compensation under conventional heads	Rs.30,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.3,57,630/-
(viii)	Enhanced amount of compensation	Rs.3,57,630 – 1,42,830= Rs.2,14,800/-

The enhanced amount of compensation of **Rs.2,14,800/-** 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**

(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