IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4206 of 2005
Date of decision:- 15.02.2018

Sushila Devi and Others ...Appellants

Versus

Khazan Singh and Others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Tanika Goyal, Advocate, for
Mr. Prateek Mahajan, Advcoate,
for the appellants.

Mr. R. C. Kapoor, Advocate,
for respondent No. 4-NIC.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') vide Award dated 07.06.2005, on account of death of Ram Phal in a motor vehicular accident which took place on 25.02.2004.

FACTS NOT IN DISPUTE

Brief facts of the case are that, On 25.02.2004, Ram Phal (since deceased) was returning from village Khatkar, Tehsil Narwana, District Jind, after taking lunch on the occasion of marriage of one Vijender son of Om Parkash and was traveling by his motorcycle bearing regisration No. HR-03E/2448. One Mahender Singh son of Ram Dhari, a resident of Village Kharak Gagar itself was following Ram Phal on a separate scooter. After the deceased covered some distance from village Khatkar, a bus of Hayrana

Rodways bearing registration No. HR-31PA/0130 driven by respondent No.1 Khazan Singh in a rash and negligent manner came from front side and hit the motorcycle. Resultantly, Ram Phal sustained grievous injuries and died just after reaching the hospital. In this regard FIR No. 45 was got registered under Sections 279/304-A IPC at police station Uchana.

Consequently, claimants-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 respondent No.1 while driving offending vehicle. The claimants submits that at the time of accident, deceased was 48 years of age and was employed as a clerk in office of Executive Engineer, Water Services Divisions, Jind and was drawing a total salary of Rs.9,666/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant. According to salary certificate Ex.PD, the total emoluments of the deceased were Rs. 9,666/- per month. PW5-Umed Singh (Clerk in the office of Executive Engineer, Water Services Division,Jind) made clear in the cross examination that a sum of Rs.2,000/- was being deducted from the pay of the deceased on account of G.P.F. And Rs.20/- on account of G.I.S. And in this way carry home salary was Rs. 7,646/-. Hence, compensation awarded by the Tribunal as under :

Sr. No.	*Heads*	*Calculations*
(i)	Salary	Rs.7,646/- per month
(ii)	1/3rd deducted towards personal expenses	Rs.7,646-2549=5,097/- P.M.
(iii)	Multiplier applied	Rs.5,097X12X10=6,11,640/-
	Total Compensation Awarded	**Rs. 6,11,640/-**

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017),*** and income of the deceased took by the Tribunal as Rs. 7,646/- after deduction the GPF amount of Rs.2000/- and Rs. 20/- as GIS. Keeping in view the facts and circumstances, this court take income of the deceased as Rs.9,666/- only statutory deductions i.e. tax are required to be excluded from the salary for the purpose of finding out the income of the deceased. After deducting the tax at the rate of the prevailing tax slab i.e. 20% (after exemption of Rs.50,000/-) amount comes to Rs.1,02,794/-. It is clear that deduction ofRs.2000/- as GPF was in the nature of saving and is loss to estate of the deceased and other pay revision and annual increments have not been taken into consideration while fining out the income and dependancy. Hence, reassessed amount of compensation as under:

Sr. No.	***Heads***	***Calculations***
(i)	Salary after tax	Rs.1,02,794/- per annum
(ii)	30% added towards future prospects	Rs.1,02,794+30838=1,33,632/-
(iii)	1/4th deducted towards personal expenses	Rs.1,33,632-33,408=1,00,224/-
(iv)	Multiplier applied	Rs.1,00,224X13=13,02,912/-
(iv)	Compensation towards conventional heads	Rs.70,000/-
	Total Compensation Awarded	**Rs.13,72,912/-**
	Enhanced amount of compensation	**Rs. 13,72,912-6,11,640=7,61,272/-**

The enhanced amount of compensation of **Rs.7,61,272 /-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case ***Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018*** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

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.

15.02.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No