

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

FAO-5196-2005 (O&M)

Date of Decision:02.02.2018

Smt. Kamlesh and others

.....Appellants

Versus

Satbir Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Jagdish Manchanda, Advocate,
for the appellants.**

**Mr. Sumeet Sangwan, Advocate,
for respondent No.1.**

**Mr. R.K. Singla, A.A.G., Haryana,
for respondent Nos.2 and 3.**

**Mr. Sanjiv Pabbi, Advocate,
for respondent No.4-Insurance Company.**

HARI PAL VERMA, J.(Oral)

Appellants-claimants have filed the present appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Kaithal (for short “the MACT”) vide award dated 23.08.2005.

The claimants have filed a claim-petition under Sections 166/163-A of the Motor Vehicles Act, 1988, for grant of compensation on account of death of Balbir Singh. Claimant No.1 is the widow of Balbir Singh, claimant Nos.2 and 3 are his minor son and daughter, whereas claimant Nos.4 and 5 are his old parents. As per the claim-petition, on 09.11.2004 at about 3.00 p.m., when Balbir Singh was coming to his village

Guliyana from village Taragarh by Haryana Roadways bus bearing

registration No.HR-64-0161 at bus stand village Taragarh by holding an iron rod affixed near the front gate of the bus, the respondent No.1-driver of the bus started moving the bus at a fast speed without looking back to ascertain whether the passengers had boarded the bus properly or not. He did not even wait for blowing the whistle by the conductor of the bus. As a result thereof, hand of the deceased with which he was holding an iron rod slipped. He fell down on the metalled road and crushed under the rear tyre of the bus. Immediately, he was taken to Civil Hospital, Kaithal by the driver and Ram Bhagat, brother of the deceased. Ram Bhagat was also coming back to his village from Kaithal by the same bus. The deceased was referred to PGI, Chandigarh, but on his way he succumbed to his injuries. The deceased was brought back to Civil Hospital, Kaithal, where his post-mortem was conducted.

As per claim-petition, the deceased was 28 years of age and was working as Extra Departmental Runner in the postal department. His salary was calculated @ ₹2,815/- per month on the date of accident. As the claimants have produced pay certificate of the deceased Ex.P3/1, considering the monthly income of the deceased as ₹2,815/- and after applying 1/3rd deductions from the salary, monthly dependency of the deceased was assessed at ₹1,877/- per month, which comes to ₹22,524/- per annum. Considering the age of the deceased 28 years, the learned MACT has applied the multiplier of 18. An amount of ₹5,000/- was awarded towards consortium whereas an amount of ₹5,000/- was granted towards the expenditure incurred for performing the last rights. Resultantly, the claim-petition was accepted and a total compensation of ₹4,15,432/- was awarded to the claimants.

Dissatisfied with the aforesaid award, the claimants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that the deceased was 28 years of age at the time of accident and there were five members in the family who were dependent upon him. The learned MACT was required to apply 1/4th deductions instead of 1/3rd. Similarly, as held by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others**, 2017 (4) R.C.R (Civil) 1009, the claim of the appellants is required to be enhanced by awarding 50% amount towards future prospects. The deceased was working with the postal department as Extra Departmental Runner and therefore, was a Govt. employee.

Learned counsel for respondent No.4-Insurance Company has argued that taking into consideration the age and income of the deceased, the learned MACT has awarded adequate compensation to the claimants.

I have heard the learned counsel for the parties.

There is no doubt that deceased Balbir Singh was 28 years of age at the time of accident and was drawing a salary of ₹2,815/- per month. As held in the case of **Pranay Sethi's case (supra)**, the claimants are entitled to 50% income to be added towards the monthly income of the deceased under the head of future prospects. Similarly, there being five dependents, the learned MACT was required to make 1/4th deductions instead of 1/3rd. The learned MACT has applied the multiplier of 18 but in view of the judgment passed in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another**, 2009(6) SCC 121, the deceased being 28 years of age, multiplier of 17 was required to be applied.

Accordingly, the award dated 23.08.2005 passed by the learned

MACT is modified and the compensation, to which the claimants are entitled, is computed as follows:-

Monthly income	:	₹2,815/-
Future prospects (50%)	:	₹1,407.50
Total monthly income	:	₹4,222.50
Annual income	:	₹50,670.00
Deductions (1/4 th)	:	₹38,002.50
Multiplier (38,002.50 x 17)	:	₹6,46,042.50
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-
Loss of consortium	:	₹40,000/-

Total amount of compensation	:	₹7,16,042.50
(round off to ₹7,16,042.00)	:	₹7,16,042.00
Amount already awarded	:	₹4,15,432.00

Enhanced amount	:	₹3,00,610.00

Since the claimants have already been awarded an amount of ₹4,15,432/-, this amount is required to be deducted from the total amount of compensation so assessed above.

Accordingly, the claimants are entitled for enhancement of compensation of ₹3,00,610/- over and above the compensation already awarded by the learned MACT, which shall carry interest @ 7.5% per annum from the date of filing of the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

February 02, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No