

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

FAO-978-2006

Date of decision: 27.04.2018

Jarnail Kaur and others

...Appellants

V/s.

Harjit Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ashish Gupta, Advocate for
Mr. R.K. Gupta, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for respondent No. 3.

RITU BAHRI, J. (Oral).

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') vide award dated 10.01.2006 on account of death of Gurmukh Singh in a motor vehicular accident which took place on 19.01.2003. Appellant No.1 Jarnail Kaur is the widow of deceased Gurmukh Singh, appellants No. 2 and 3 are the children whereas appellant No. 4 is the mother of deceased Gurmukh Singh, who is stated to be died.

FACTS NOT IN DISPUTE

Brief facts of the case are that Gurmukh Singh who died in a road accident which took place on 19.01.2003 when he was returning home from his field via pucca road, mini bus No. PAB/9059 came and struck against him which resulted into serious injuries and finally he died.

With regard to the incident, FIR No. 7 dated 20.01.2003 under Sections 279 and 304-A IPC, Police Station Khamanon, was registered against Harjit Singh, the driver of the 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. mini bus by its driver-respondent No.1 Harjit Singh and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of PW-2 Amarjit Singh, who was eye witnesses of the accident. Further the claimants have proved copies of salary Ex. P4, FIR Ex. RW4/D, site plan Ex. Rx and post mortem report Ex.P7.

As per the cross-examination of PW-3 Bakhshish Singh Clerk, Punjab State Electricity Board, he has deposed that deceased Gurmukh Singh was posted as Assistant Lineman in Punjab State Electricity Board at Sub Division Khamanon and was drawing gross salary of Rs.9,435/- per month Ex. P4. The carry home salary came to be Rs.7,500/- out of which, 1/3rd amount was deducted towards his personal expenses, which came to be Rs.5000/- per month. The deceased was 45 years of age at the time of death. The Tribunal has applied the multiplier of 10, dependency of claimants came to Rs.6,00,000/- (5000 X12 X10). Hence, the claimants were found entitled to total compensation of Rs.6,00,000/- 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. 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.9,500/- per month
(ii)	1000 deduction of income tax	Rs. 8,500/- per month
(iii)	30% of (i) above to be added as future prospects	8500+2550=Rs.11,050/-
(iv)	1/3 rd of (iii) above is deducted as personal expenses of the deceased	Rs.11050-3683=Rs.7,367/-
(v)	Compensation after multiplier of 14 applied	Rs.7,367 X 12 X 14=12,37,656/-
(vi)	Compensation under conventional heads	Rs.70,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 13,07,656/-
(viii)	ENHANCED AMOUNT OF COMPENSATION	Rs.13,07,656-6,00,000 = Rs.7,07,656/-

The enhanced amount of compensation of **Rs.7,07,656/-** 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 V/s. The Oriental Insurance*

Company Ltd. and others in Civil Appeal No. 448 of 2018. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

April 27, 2018
Divyanshi

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