

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

FAO No.2048 of 2010 (O&M)

Date of decision: 08.05.2018

Udai Singh and another

....Appellants

Versus

Abnash & another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Avtar Singh Syan, Advocate,
for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Muktsar (hereinafter referred to as 'the Tribunal') vide award dated 26.05.2009 on account of death of Kanwaljit Singh in a motor vehicular accident which took place on 15.06.2007. Appellants are parents of deceased Kanwaljit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.06.2007, Kanwaljit Singh (since deceased) was going on a motorcycle (Enfield). At about 8.30 P.M., when he reached near village Bodiwala, a Ford tractor was standing on the road. When he tried to cross the said tractor, a truck bearing registration No. RJ-07-G-2163 being driven by respondent No.1-Abnash in a rash and negligent manner came from the opposite side and struck against the motorcycle of Kanwaljit Singh, as a result of which, he (Kanwaljit Singh) was crushed under front tyre of the said truck and died at the spot. With

regard to the incident, FIR No.121 dated 15.06.2007 was registered against

respondent No.1 at Police Station, Sadar Malout. 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 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Harbans Singh (PW-2), who was eye witnesses of the accident. Claimants have also proved on record copy of postmortem report Ex.PW3/B and FIR Ex.PW3/C.

Deceased-Kanwaljit Singh was student of British Academy and had taken IELTS coaching. In the absence of any documentary proof, notional income of the deceased was assessed as Rs.15,000/- per annum. Out of this, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.10,000/- per annum. The deceased was 22 years of age at the time of death/accident. Multiplier of 16 was applied by the Tribunal. After applying the multiplier of 16, dependency of claimants came to Rs.1,60,000/- (10,000/- x 16). Hence, the claimants were found entitled to total compensation of Rs.1,60,000/-. 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. 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.4000/- per month
(ii)	40% of (i) above to be added as future prospects	4000 + 1600 = Rs.5600/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	5600 – 2800 = Rs.2800/-
(iv)	Compensation after multiplier of 18 is applied	Rs.2800/- x 12 x 18 = Rs.6,04,800/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.6,34,800/-
(vii)	Enhanced amount of compensation	Rs.6,34,800 – 1,60,000 = Rs.4,74,800/-

The enhanced amount of compensation of **Rs.4,74,800/-** 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 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.” 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.

08.05.2018
ajp

(RITU BAHRI)
JUDGE

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