

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

FAO No.2167 of 2010 (O&M)

Date of decision: 16.05.2018

Harjit Kaur and another

....Appellants

Versus

Raj Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mahesh Gupta, Advocate,
for the appellants.

Mr. Vishwajit Bedi, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 16.05.2009 on account of death of Gurvinder Singh in a motor vehicular accident which took place on 08.11.2006. Appellants are parents of deceased Gurvinder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.11.2006, Gurvinder Singh (since deceased) was going on a motorcycle bearing registration No. PB-13-Q-2135 from village Bhassaur to DMC, Ludhiana. Baljit Singh son of Jaimail Singh was going along with him as a pillion rider. They were being followed by Ajit Singh and Bhupinder Singh on a separate motorcycle No. PLB-28-C-0757. At about 8.00 P.M., when they reached near the office of Libra Bus Service, Malerkotla, in the meantime, an oil tanker No. HR-46-5932 was being reversed towards the side of the road without the help of

any conductor or indicator. In that process, the oil tanker struck against the motorcycle of Gurvinder Singh, as a result of which, Gurvinder Singh and Baljit Singh fell on the road and sustained serious injuries. They were shifted to Civil Hospital, Malerkotla, where Gurwinder Singh succumbed to the injuries and Baljit Singh was referred to Rajindra Hospital, Patiala. With regard to the incident, FIR No.33 dated 09.11.2006, under Sections 304-A, 279, 337 and 427 IPC was registered against respondent No.1 at Police Station, Malerkotla. 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 Ajit Singh (PW-4) and Baljit Singh (PW-5), who were eye witnesses of the accident. Claimants have also proved on record copy of FIR Ex.143.

In the absence of any documentary proof, income of the deceased was assessed as Rs.3600/- per month i.e. Rs.43,200/- per annum. Out of this, 50% amount was deducted towards his personal expenses. The deceased was 22 years of age at the time of death/accident. Multiplier of 08 was applied by the Tribunal keeping in view the age of his parents. After applying the multiplier of 08, dependency of claimants came to Rs.1,72,300/-. In addition to this, Rs.2500/- were awarded on account of funeral expenses, Rs.5000/- as loss of consortium and Rs.2500/- as loss of estate. Hence, the claimants were found entitled to total compensation of

Rs.1,82,300/-. 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.3600/- per month
(ii)	40% of (i) above to be added as future prospects	3600 + 1440 = Rs.5040/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	5040 – 2520 = Rs.2520/-
(iv)	Compensation after multiplier of 18 is applied	Rs.2520/- x 12 x 18 = Rs.5,44,320/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.5,74,320/-
(vii)	Enhanced amount of compensation	Rs.5,74,320 – 1,82,300 = Rs.3,92,020/-

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.

16.05.2018
ajp

(RITU BAHRI)
JUDGE

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