

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

**FAO No.3454 of 2010 (O&M)
Date of decision: 10.05.2018**

Veena Kaur and others

....Appellants

Versus

Gurvinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.D. Sharma, Advocate,
for the appellants.

Mr. Ashwani Talwar, Advocate,
for National Insurance Company Ltd.

RITU BAHRI J. (Oral)

CM No.20803-CII of 2017

For the reasons mentioned in the application, same is allowed and the main appeal i.e. FAO No.3454 of 2010 is taken up today itself for its disposal.

CM Nos.15547-15548-CII of 2010

In view of the averments mentioned in the applications, same are allowed and delay in filing & re-filing of the appeal is condoned.

FAO No.3454 of 2010

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 08.08.2005 on account of death of Inder Singh in a motor

vehicular accident which took place on 23.02.2003. Appellant No.1 is widow and appellant Nos.2 to 4 are children of deceased Inder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that Inder Singh (since deceased) was working as driver on truck No.HR-02-GA-0053. On 23.02.2003, he started from Delhi for Yamuna Nagar by driving the said truck. When he reached near village Rai, District Sonapat, a four wheeler bearing registration No.DL-1-LE-5064 being driven by Krishan-respondent No.2 in a rash and negligent manner, came from the opposite side and struck against the truck of Inder Singh, as a result of which, Inder Singh received multiple, grievous injuries on his person and he became unconscious. Initially, he was taken to Civil Hospital, Sonapat and thereafter, he was taken to Lok Nayak Jai Parkash Narain, Hospital, New Delhy, where he succumbed to the injuries. With regard to the accident, FIR was also recorded. Consequently, the claimant-appellants filed a claim petition under Section 163-A of the Motor Vehicle Act 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 due to the involvement of both the vehicles i.e. truck No. HR-02-GA-0053 and truck No.DL-1-LE-5064, resulting into the death of Inder Singh and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of the witnesses and the documents produced before the Tribunal.

The deceased was working as a truck driver. In the absence of any documentary evidence, income of the deceased was assessed as

Rs.2500/- per month i.e. Rs.30,000/- per annum. Out of this income, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.20,000/- per annum. As per postmortem report Ex.P2, deceased was 45 years of age at the time of death/accident. Accordingly, multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimants came to Rs.2,60,000/- (20,000/- x 13). Hence, the claimants were found entitled to total compensation of Rs.2,60,000/- along with interest at the rate of 9% per annum from the date of filing of 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. 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
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(i)	Income as per IInd Schedule of the Act.	Rs.3300/- per month
(ii)	1/3 rd of (i) above is deducted as personal expenses of the deceased	3300 – 1100 = Rs.2200/-
(iii)	Compensation after multiplier of 14 is applied	Rs.2200/- x 14 x 12 = Rs.3,69,600/-
(iv)	Compensation under the conventional heads (as per IInd Schedule)	Rs.9500/-
(v)	TOTAL COMPENSATION AWARDED	Rs.3,79,100/-
(vi)	Enhanced amount of compensation	Rs.3,79,100 – 2,60,000 = Rs.1,19,100/-

The enhanced amount of compensation of **Rs.1,19,100/-** 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.

(RITU BAHRI)
JUDGE

10.05.2018
ajp

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