

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

**CM No.5953-CII of 2018 in/and
FAO No.5593 of 2010 (O&M)
Date of decision: 24.05.2018**

Smt. Jaskawal Kaur and others

....Appellants

Versus

Joshwa Chowdhary and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Parvez Chugh, Advocate,
for applicant-appellants.

Mr. Neeraj Khanna, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.5953-CII of 2018

In view of the averments mentioned in the application, same is allowed and the main appeal i.e. FAO No.5593 of 2010 is taken up today itself for its disposal.

FAO No.5593 of 2010

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 24.08.2009, on account of death of Devinder Mohan Singh in a motor vehicular accident which took place on 29.05.2006. Appellant No.1 is widow, appellant Nos. 2 & 3 are sons and respondent Nos.3 & 4 are parents

of deceased Devinder Mohan Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.05.2006, at about 8.00 P.M., after winding up his business, Devinder Mohan Singh (since deceased) was going towards his house on a scooter. His brother Inder Mohan Singh was following him on another scooter. At about 10.30 P.M., Devinder Mohan Singh purchased a food packet from R.K. Dhaba. In the meantime, one Palio car bearing registration No. PB-08-AV-0095, being driven by respondent No.1 Joshwa Chowdhary in a rash and negligent manner, came and struck against Devinder Mohan Singh, as a result of which, he fell on the road and died at the spot. With regard to the accident, FIR No.156 dated 30.05.2006, under Sections 304-A/427 IPC was registered against respondent No.1 at Police Station, Division No.6, Jalandhar. 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 offending vehicle by respondent No.1, as a result of which Devinder Mohan Singh died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Inder Mohan Singh (PW-2), who was an eye witness of the accident and on whose statement, the FIR Ex.PW1/A was registered.

In the absence of any document evidence, income of the deceased was assessed as Rs.7000/- per month i.e. Rs.84,000/- per annum.

Out of this, 1/4th amount was deducted towards personal expenses of the

deceased. By doing so, remaining amount came to Rs.63,000/- per annum (84,000 – 21,000). Keeping in view the age of deceased, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants (appellants) came to Rs.10,08,000/- (63,000 x 16). In addition to it, Rs.2,000/- were awarded on account of funeral expenses and Rs.5000/- is awarded to widow-claimant No.1 as loss of consortium. Hence, appellant-claimants were found entitled to total compensation of Rs.10,15,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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 respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the 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.7000/- per month

(ii)	40% of (i) above to be added as future prospects	7000 + 2800 = Rs.9,800/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9800 – 2450 = Rs.7350/-
(iv)	Compensation after multiplier of 16 is applied	Rs.7350/- x 12 x 16 = Rs.14,11,200/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.14,81,200/-
(vii)	Enhanced amount of compensation	Rs.14,81,200 – 10,15,000 = Rs.4,66,200/-

The enhanced amount of compensation of **Rs.4,66,200/-** 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 (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

24.05.2018
ajp

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