

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

**FAO No.5751 of 2010
Date of decision: 02.05.2018**

Naresh Kumar

....Appellant

Versus

Satbir and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Verma, Advocate,
for the appellant.

Mr. R.N.Singhal, Advocate,
for respondent No.2-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, Jind (hereinafter referred to as 'the Tribunal') vide award dated 18.02.2010 on account of death of Poonam Rani in a motor vehicular accident which took place on 20.08.2008. Appellant is husband of deceased Poonam Rani.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.08.2008, Prem Singh, who was posted as a Drawing Teacher in Govt. Senior Secondary School, Shamdo, boarded a Cruiser Jeep bearing registration No. HR-56-C-4514 from Patiala Chowk, Jind in order to reach village Shamdo. Some other persons, including Smt. Poonam Rani (since deceased) and Virender were also traveling in the said jeep, which was being driven by respondent No.1-

Satbir in a rash and negligent manner. At about 8.00 A.M., when they reached in the area of village Naguran near Khadi Ashram, respondent No.1 lost control over the jeep and it struck against an eucalyptus tree standing on the left side of the road. As a result of this accident, Prem Singh, Smt. Poonam Rani, Virender and other persons traveling in the jeep received serious and grievous injuries. They were taken to General Hospital, Jind, from where Smt. Poonam Rani and Prem Singh were referred to PGIMS, Rohtak, where they succumbed to the injuries. Smt. Poonam Rani was pregnant at that time. With regard to the incident, FIR No.124 dated 20.08.2008, under Sections 279, 337 & 304-A IPC was registered at Police Station, Alewa against respondent No.1. Consequently, the claimant-appellant 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. This finding was rightly given on the basis of deposition of Virender (PW-10), who was an eye witness of the accident as he was travelling in the same vehicle. Claimants have also proved on record copy FIR Ex.P1 and postmortem report of deceased-Poonam Rani as Ex.P-3.

The deceased was working as a teacher in Swami Sita Ram Senior Secondary School, Kithana. Salary of the deceased was assessed as Rs.3000/- per month, out of which, 50% amount was deducted towards her personal expenses. By doing so, remaining amount came to be Rs.1500/- per month i.e. Rs.18,000/- per annum. The deceased was 25 years of age at the time of death/accident. Accordingly, multiplier of 18 was applied. After

applying the multiplier of 18, dependency of claimant came to Rs.3,24,000/- (18,000/- x 18). In addition to it, Rs.11,000/- were awarded on account of loss of consortium and Rs.10,000/- as funeral expenses. Hence, the claimant was found entitled to total compensation of Rs.3,45,000/- along with interest at the rate of 7.5% per annum from the date of filing of 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 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. Keeping in view that the accident had taken place in the year 2008, income of deceased is being taken as Rs.6000/- per month. No deduction is required to be made in this income. Accordingly, 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.6000/- per month

(ii)	Compensation after multiplier of 18 is applied	Rs.6000/- x 12 x 18 = Rs.12,96,000/-
(iii)	Compensation under the conventional heads	Rs.70,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.13,66,000/-
(v)	Enhanced amount of compensation	Rs.13,66,000 – 3,45,000 = Rs.10,21,000/-

The enhanced amount of compensation of **Rs.10,21,000/-** 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

02.05.2018
ajp

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