

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

**FAO No.3509 of 2011 (O&M)
Date of decision: 15.01.2018**

Amarjit Kaur and others

....Appellants

Versus

Jagdev Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Vinay Bajaj, Advocate,
for Mr. G.L. Bajaj, Advocate,
for the appellants.

Mr. A.S. Sidhu, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.12418-CII of 2011

For the reasons mentioned in the application, same is allowed
and delay of 27 days in refiling of the appeal is condoned.

FAO No.3509 of 2011

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Bathinda (hereinafter referred to as 'the Tribunal') vide award dated
30.11.2010 on account of death of Jaspal Singh in a motor vehicular
accident which took place on 29.01.2008. Appellant No.1 is widow,
appellant No.2 is daughter and appellant Nos. 3 & 4 are parents of deceased
Jaspal Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.01.2008, Jaspal Singh (since deceased) along with his brother Rachhpal Singh and friend Sukhwinder Singh was going from Bathinda to his work place. Jaspal Singh was going on his motorcycle, whereas Rachhpal Singh and Sukhwinder Singh were on a scooter. On the way, they stopped their vehicles on a patrol pump at village Naurana, District Bathinda. After filling petrol in his motorcycle, when Jaspal Singh reached on the main road, a Bolero Pickup Jeep bearing registration No. PB-03-P-9388 being driven by respondent No.1-Jagdev Singh in a rash and negligent manner, came from the side of village Badal and struck against the motorcycle, as a result of which, Jaspal Singh received multiple grievous injuries on vital part of his body. He was taken to Civil Hospital, Bathinda by Rachhpal Singh and Sukhwinder Singh, but succumbed to the injuries in the way. With regard to the incident, FIR under Sections 304-A/279/337/338 IPC was registered against respondent No.1. 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-Jagdev Singh. This finding was rightly given on the basis of deposition of Rachhpal Singh (AW-2), who was eye witnesses of the accident. Further, the claimants have proved on record FIR registered against respondent No.1.

In the absence of any documentary proof, income of the deceased was assessed as Rs.3000/- per month as a labourer, out of which,

1/4th amount was deducted towards his personal expenses, which came to be Rs.2250/- per month. As per postmortem report, deceased was 42 years of age at the time of death/accident. Accordingly, multiplier of 14 was applied. After applying the multiplier of 14, dependency of claimants came to Rs.3,78,000/- (2250/- x 12 x 14). In addition to it, Rs.5000/- were awarded on account of funeral charges and Rs.5000/- to claimant No.1 as loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.3,88,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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.3000/- per month

(ii)	25% of (i) above to be added as future prospects	$3000 + 750 = \text{Rs.}3750/-$
(iii)	$1/4^{\text{th}}$ of (ii) above is deducted as personal expenses of the deceased	$3750 - 937 = \text{Rs.}2813/-$
(iv)	Compensation after multiplier of 14 is applied	$\text{Rs.}2813/- \times 12 \times 14 = \text{Rs.}4,72,584/-$
(v)	Compensation under the conventional heads	$\text{Rs.}70,000/-$
(vi)	TOTAL COMPENSATION AWARDED	$\text{Rs.}5,42,584/-$
(vii)	Enhanced amount of compensation	$\text{Rs.}5,42,584 - 3,88,000 = \text{Rs.}1,54,584/-$

The enhanced amount of compensation of **Rs.1,54,584/-** 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 @ 9% 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 “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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

15.01.2018
ajp

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