

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

**FAO No.3683 of 2012 (O&M)
Date of decision: 08.02.2018**

Sukhwinder Singh

....Appellant

Versus

Raju Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.P.S. Virk, Advocate,
for the appellant.

Mr. Vinod Gupta, 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 09.12.2011, on account of death of Kulwant Singh in a motor vehicular accident which took place on 02.12.2009. Appellant is son of deceased Kulwant Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 02.12.2009, Kulwant Singh (since deceased) was going from the side of Banur towards Jansla on a motorcycle (TVS Victor) bearing registration No.PB-11-AB-9348. Claimant-Sukhwinder Singh was following him on a separate motorcycle. At about 6.30 P.M., when Kulwant Singh reached in front of Reliance Petrol

Raju Singh-respondent No.1 in a rash and negligent manner came from behind and hit the motorcycle of Kulwant Singh, as a result of which, he fell down on the road, however, the Tipper ran over him while crushing his head. Kulwant Singh succumbed to the injuries on the spot. With regard to the accident, FIR No.136, Ex.C2 was recorded against respondent No.1. Consequently, present claimant-appellant along with his sisters 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. This finding was rightly given on the basis of deposition of Sukhwinder Singh-appellant (CW-1), who was eye witness of the accident. Further, the claimant-appellant had proved on record copy of postmortem report Ex.C1, FIR Ex.C2, copy of death certificate Ex.C3 and copy of charge sheet Ex.C5.

In the absence of any documentary proof, income of deceased was assessed as Rs.5000/- per month i.e. Rs.60,000/- per annum, out of which, 1/3rd amount was deducted towards his personal expenses. The annual dependency of claimant-appellant, thus, came to Rs.40,000/-. As per driving licence, the deceased was 60 years of age at the time of accident/death and the multiplier of 9 was applied. Thus, the claimant was found entitled to compensation of Rs.3,60,000/-. In addition to it, Rs.5,000/- were awarded towards funeral expenses and Rs.5000/- for loss of estate. Claimant Nos.2 to 5 being married daughters of deceased, were not dependent upon him. Therefore, they were not found entitled to receive any compensation in this case. Hence, claimant No.1 (appellant) being son of

deceased, was found entitled to a total compensation of Rs.3,70,000/- along with interest @ 9% 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. 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 **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5000/- per month
(ii)	10% of (i) above to be added as future prospects	5000 + 500 = Rs.5500/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	5500 – 1833 = Rs.3667/-
(iv)	Compensation after multiplier of 9 is applied	Rs.3667/- x 12 x 9 = Rs.3,96,036/-
(v)	Compensation towards funeral expenses	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.4,11,036/-
(vii)	Enhanced amount of compensation	Rs.4,11,036 – 3,70,000 = Rs.41,036/-

The enhanced amount of compensation of **Rs.41,036/-** 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

08.02.2018
ajp

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