

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

FAO No.4907 of 2012 (O&M)

Date of decision: 15.01.2018

Saroj Devi and others

....Appellants

Versus

Naresh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikrant Hooda, Advocate,
for the appellants.

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

RITU BAHRI J. (Oral)

CM No.21551-CII of 2012

No reply has been filed on behalf of the insurance company.

There is delay of 1693 days in filing of the appeal. Initially, the appellants had engaged Mr. R.K. Dahiya, Advocate, as their counsel, but later on, they came to know that he was not keeping good health for the last 3-4 years. Due to this reason, the appellants engaged another counsel namely Mr. Vikrant Hooda, Advocate, to represent their case. Therefore, the delay cannot be attributed to the appellants.

In view of the said fact, delay of 1693 days in filing of the appeal is condoned.

Misc. application stands allowed accordingly.

FAO No.4907 of 2012

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal,

Sonepat (hereinafter referred to as 'the Tribunal') vide award dated 14.09.2007 on account of death of Pushkar son of Sewa Ram in a motor vehicular accident which took place on 24.12.2004. Appellant No.1 is widow, appellant Nos.2 to 4 are children and claimant No.5 was father of deceased Pushkar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.12.2004, at about 5.00 P.M., Pushkar (since deceased) along with Subhash Chander, Mehak Singh and Rajpal was going from Lakhmi Piau towards his village Bhaira Bankipur in an Auto Rickshaw bearing registration No. HR-10-PA-0151. At about 5.40 P.M., when they reached near Purana Khera, a TATA-608 bearing registration No. HR-33-2131, being driven by Naresh-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the right side of auto rickshaw, as a result of which, Pushkar received fatal injuries and died at the spot. Another passenger namely Mehak Singh also received injuries in the said accident. With regard to the incident, FIR No. 181 dated 24.12.2004 was registered at Police Station, Kundli 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-respondent No.1. This finding was rightly given on the basis of deposition of Subhash Chander (PW-2) and Mehak Singh (PW-3), who were eye witnesses of the accident. Further the claimants have proved copy of FIR Ex.P4, copy of

report under Section 173 Cr.P.C. Ex.P72 and charge sheet as Ex.P73.

As per claimants, deceased used to sell milk to Gian Chand of Gaurav Dairy, Kewal Park, Azadpur, Delhi. In the absence of any documentary proof, income of the deceased was assessed as Rs.6000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. Remaining income came to be Rs.4000/- per month. The deceased was 35-38 years of age at the time of death/accident. Accordingly, multiplier of 15 was applied. After applying the multiplier of 15, dependency of claimants came to Rs.7,20,000/- (4000/- x 12 x 15). In addition to it, Rs.5,000/- were awarded on account of loss of consortium to the spouse of deceased (claimant No.1) and Rs.10,000/- as transportation & last rites. Hence, the claimants were found entitled to total compensation of Rs.7,35,000/- along with interest @ 7.5% 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. There is no dispute with regard to finding 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-driver. 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)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	8400 – 2800 = Rs.5600/-
(iv)	Compensation after multiplier of 15 is applied	Rs.5600/- x 12 x 15 = Rs.10,08,000/-
(v)	Compensation under conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.10,78,000/-
(vii)	Enhanced amount of compensation	Rs.10,78,000 – 7,35,000= Rs.3,43,000/-

The enhanced amount of compensation of **Rs.3,43,000/-** 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 @ 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