

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

**FAO No.2316 of 2013 (O&M)
Date of decision: 08.01.2018**

Kulvir Kaur and others

....Appellants

Versus

Harbhajan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Bector, Advocate,
for the appellants.

Mr. Subhash Goyal, Advocate,
for respondent No.3-Bajaj Allianz General Insurance Co. Ltd.

Mr. Rajbir Singh, Advocate,
for respondent No.5-ICICI Lombard General Insurance Co. Ltd.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal') vide award dated 02.04.2012, on account of death of Sikandar Khan in a motor vehicular accident which took place on 23.06.2010. Appellant No.1 is widow and appellant Nos.2 to 6 are children of deceased Sikandar Khan.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.06.2010, Sikandar Khan (since deceased) after hiring two vehicles, was going along with Raju and Sawarn Singh, from Saman Kalan to Jagraon for cattle fair. Sikandar Khan

G-5975 and four high breed cows in Tata 407. He was sitting in Tempo Trax No.PB-12-G-5975, which was being driven by Harbhajan Singh-respondent No.1. Raju and Swarn Singh were following them in Tata 407. At about 8.30 A.M., when they reached ahead of village Dhatt, Police Station, Dakha on Ludhiana-Jagraon road, respondent No.1 suddenly turned the tempo towards right side of the road and struck the same against Alto Car bearing registration No. PB-29-J-3375, as a result of which, Tempo Trax turned turtle on the road. Sikandar Khan received serious injuries and died at the spot. Banwari Lal, driver of Alto car also died in the said accident. Two high breed cows were also died. With regard to the accident, FIR No.191 dated 23.06.2010, under Sections 279, 337, 427, 304-A IPC was registered at Police Station, Dakha against respondent No.1 on the statement of Sona Rani. Consequently, claimants-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 been caused on account of negligent driving of offending Temp Trax by respondent No.1. This finding was rightly given on the basis of FIR, Ex.P2 and deposition of PW-1 and PW-2.

In the absence of any documentary proof, income of deceased was assessed as Rs.7500/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.5000 x 12 = Rs.60,000/-. The deceased was 35 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of

Rs.9,60,000/-. In addition to it, Rs.15,000/- were awarded towards loss of consortium to widow-appellant No.1, loss of love and affection to the children and Rs.5000/- towards loss of funeral expenses. Hence, the claimants were found entitled to a total compensation of Rs.9,80,000/- 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.

Learned counsel for respondent No.3 has informed that appeal against the impugned award filed by the insurance company, has already been dismissed by this Court.

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.7500/- per month
(ii)	40% of (i) above to be added as future prospects	7500 + 3000 = Rs.10,500/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	10,500 – 2625 = Rs.7875/-
(iv)	Compensation after multiplier of 16 is applied	Rs.7875/- x 12 x 16 = Rs.15,12,000/-

(v)	Compensation towards conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.15,82,000/-
(vii)	Enhanced amount of compensation	Rs.15,82,000 – 9,80,000 = Rs.6,02,000/-

The enhanced amount of compensation of **Rs.6,02,000/-** 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

08.01.2018
ajp

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