

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

**FAO No.10628 of 2014 (O&M)
Date of decision: 17.04.2018**

Prabha Wati

....Appellant

Versus

Hem Raj and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jamshed Ahmed, Advocate,
for the appellant.

Mr. J.S. Hooda, Advocate,
for respondent No.2.

Mr. Pradeep Kumar, 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, Palwal (hereinafter referred to as 'the Tribunal') vide award dated 09.09.2014, on account of death of Khem Chand in a motor vehicular accident which took place on 10.12.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.12.2012, Khem Chand (since deceased) along with Karan Singh son of Bhagwat Dayal was going on foot on the left side at NH-2, Kudlipur. At about 12.30 P.M., when they reached near Rice Mill, Kuslipur NH-2, one Eicher Canter bearing No.HR-38-R-6213 being driven by respondent No.1-Hem Raj in a rash and

negligent manner, came from the side of Delhi and hit Khem Chand, as a result of which, he fell down and received multiple/grievous injuries. He was taken to G.H. Palwal. However, he succumbed to the injuries suffered in the accident. With regard to the incident, FIR No.467 dated 10.12.2012, under Section 279/337/304-A IPC was registered against respondent No.1 at Police Station, Camp Palwal. 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 offending vehicle by respondent No.1, as a result of which Khem Chand has died and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of the deposition of Karan Singh (PW-1), who was an eye witness of the accident. Further, the claimant has proved on record copy of FIR Ex.P1.

In the absence of any documentary proof, income of the deceased was assessed as Rs.5000/- per month. Out of this, 50% amount was deducted towards his personal expenses. By doing so, the remaining amount came to Rs.2500/- per month i.e. Rs.30,000/- per month. The deceased was 30 years of age at the time of accident/death. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimant came to Rs.5,10,000/- (30,000/- x 17). In addition to it, Rs.10,000/- were awarded as funeral expenses and Rs.10,000/- as loss of love and affection. Hence, the claimant was found entitled to total compensation of Rs.5,30,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the

impugned award, the claimant-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 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.5000/- per month
(ii)	40% of (i) above to be added as future prospects	5000 + 2000 = Rs.7000/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7000 – 3500 = Rs.3500/-
(iv)	Compensation after multiplier of 17 is applied	Rs.3500/- x 12 x 17 = Rs.7,14,000/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.7,44,000/-
(vii)	Enhanced amount of compensation	Rs.7,44,000 – 5,30,000 = Rs.2,14,000/-

The enhanced amount of compensation of **Rs.2,14,000/-** 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

17.04.2018
ajp

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