

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

**F.A.O No. 3357 of 2013**

**Date of decision:-03.04.2018**

Smt. Murti Devi

...Appellant

Versus

Satnam and Others

...Respondents

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present: Mr. M.S.Randhawa, Advocate,  
for the appellant.

Mr. Lalit Garg, Advocate,  
for Oriental Insurance Company.

**RITU BAHRI J. (Oral)**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 07.01.2013, on account of death of Ajit Singh @ Sarjeet in a motor vehicular accident which took place on 31.05.2011.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that, on 31.05.2011, Ajit Singh, since deceased had gone from L-1 M/s Karan Singh, Singhana Road, Narnaul to city Narnaul on motorcycle of L-1, bearing No. HR-35-E-4394 in connection with work of L-1 and when at about 9.00 p.m., he was returning to L-1 and reached near Hero Honda Chowk, Singhana Road, Narnaul, one truck bearing No. Hr-66-5289 came from behind, which was being driven by its driver respondent no. 1 at a fast speed and in a rash and negligent manner and hit the motorcycle of Ajit Singh

@ Sarjeet from behind, as result thereof, he sustained grievous injuries on right leg, nose and other parts of his body and he succumbed to the injuries on the spot itself. As per petitioners, the accident had been caused by respondent No.1 while driving his truck No. HR-66-5289 at a high speed and in rash and negligent manner and the accident was witnessed by Somvir son of Harphool. In this regard an FIR No. 218 dated 01.06.2011, under Sections 279, 304-A/427 IPC was registered regarding this accident in Police Station, City Narnaul.

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 vehicle by respondent No.1. Claimants deposed that at the time of accident/death, deceased was 34 years of age and he was earning Rs.13,000/- per month by working as Security guard employed with M/s Karan Singh L-1 Singhana Road, Narnaul as well as by agricultural work.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Hence, Tribunal assessed the compensation as under:

| <i><b>Sr.<br/>No.</b></i> | <i><b>Heads</b></i>                                  | <i><b>Calculations</b></i> |
|---------------------------|------------------------------------------------------|----------------------------|
| (i)                       | Income                                               | Rs. 4,200/-Per month       |
| (ii)                      | 50% deducting from (i) towards personal expenses     | Rs.4,200-2,100=Rs.2,100/-  |
| (iii)                     | Multiplier applied                                   | Rs.2,100X12X9=2,26,800/-   |
| (iv)                      | Compensation towards last rites and funeral expenses | Rs.10,000/-                |
| (v)                       | Compensation towards loss of love and affection      | Rs. 10,000/-               |

| <i><b>Sr.<br/>No.</b></i> | <i><b>Heads</b></i> | <i><b>Calculations</b></i> |
|---------------------------|---------------------|----------------------------|
|                           | Total Compensation  | Rs. 2,46,800/-             |

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal

I have heard learned counsel for the parties and perused the case file.

**REASSESSED COMPENSATION**

The fact of accident is admitted and proved.

Learned counsel for the appellant stated that deceased Sarjeet was working as Security guard employed with M/s Karan Singh L-1 Singhana Road, Narnaul and this fact is also proved by PW5 Munshi Lal son of Sukhdev Sahai, who has deposed that he is partner in Firm M/s Karan Singh L-1, Singhana Road, Narnaul and Ajit @ Sarjeet was working as night guard with them since 01.04.2010 and his monthly salary was Rs.8,000/- per month. PW5 also proved salary certificate of the deceased as Ex. PW5/B, but he failed to brought any record showing the appointment of Ajit and he has not brought the salary register.

Keeping in view the facts and circumstances, deceased was a night security guard and he can be treated as semi skilled labourer and as per minimum wages prevalent at Haryana, his salary can safely be taken as Rs. 5,500/- per month.

In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgments passed by Hon'ble Supreme Court of India in a case of *National Insurance Company Ltd*

**vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017 wherein** the issue with regard to awarding of amount under the conventional heads has been authoritatively decided, while observing as under :-

*“54. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/-loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to*

*be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”*

In the present case, the compensation is being reassessed as per the judgments mentioned above:-

| <b>Sr. No.</b> | <b>Heads</b>                                                                       | <b>Calculations</b>                        |
|----------------|------------------------------------------------------------------------------------|--------------------------------------------|
| (i)            | Income                                                                             | Rs. 5,500/-                                |
| (ii)           | 40% added in (i) towards future prospects                                          | Rs.5,500 +2,200=Rs.7,700/-                 |
| (iii)          | 1/2 <sup>nd</sup> deducting from (ii) towards personal expenses (being a bachelor) | Rs.7700-3,850= Rs.3,850/-                  |
| (iv)           | Multiplier applied                                                                 | Rs.3,850X12X16= 7,39,200/-                 |
| (v)            | Compensation towards conventional heads                                            | Rs. 30,000/-                               |
|                | Total reassessed compensation                                                      | Rs.7,69,200/-                              |
|                | <b>Enhanced amount of compensation</b>                                             | <b>Rs.7,69,200 -2,46,800=Rs.5,22,400/-</b> |

The enhanced amount of compensation of **Rs.5,22,400/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme

Court in case *Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018* the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

03.04.2018  
*Riya Grover*

(RITU BAHRI)  
*JUDGE*

|                                  |            |
|----------------------------------|------------|
| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>No</i>  |