

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

F.A.O No. 1973 of 2014

Date of decision:- 17.01.2018

Lajwanti @ Gudgo widow of Tej Pal and others ...Appellants

Versus

Joginder Singh and others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.S.Khillan, Advocate,
for the appellants.

Mr. Paul S.Saini, Advocate,
for respondent No. 3.

Mr. Ashwani Tlawar, Advocate,
for respondent No. 6.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 04.04.2013, on account of death of Tejpal in a motor vehicular accident which took place on 14.06.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.06.2010 Balbir Singh, Basant Singh and Tejpal (all three now deceased), alongwith Sumer Chand, Nirmal, Sawaran Singh and Ram Chander had gone to Delhi after loading tomatoes in canter bearing registration No. HR 69A-2358. After selling tomatoes they were returning in the same canter being driven by respondent No. 5- Surinder Singh on normal speed on the left side of the road when at about 2.30 pm, a bus bearing registration No. PB 65H-9008 being driven by respondent No. 1- Joginder Singh came from behind and hit the canter near

new Police Line, GT Road. As a result of which canter turned turtle and all persons who were traveling in the said canter received multiple, grievous and serious injuries. Balbir Singh, Tejpal and Baswant Singh succumbed to the injuries. The accident in question took place due to rash and negligent driving of bus being driven by respondent No. 1. In this regard FIR No. 320 dated 14.06.2010 under Sections 279 and 337 and 304-A IPC was registered against respondent No. 1 at Police Station Chandni Bagh, Panipat and offence under Section 304-A IPC was added after the death of the said Balbir Singh, Tejpal and Baswant Singh.

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. The deceased was 38 years of age at the time of accident/death and was earning Rs.15,000/- per month by growing vegetables.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. No proof of income of deceased has been found. Tejpal (since deceased) has six dependents including one wife, two sons and three daughters. As per the law laid down in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, income of deceased assessed by the Tribunal has Rs.4,405/- plus 30% future prospects which comes to Rs.5,726/- per month. After deducting one-fourth amount towards personal expenses, the amount comes to Rs. 4295/- and annual dependancy comes to

Rs. 51,540. Since the deceased was 38 years of age at the time of his death multiplier of 15 would be applicable as per the law laid down in case Sarla (supra). After applying multiplier compensation amount comes to Rs.7,72,100/-. In addition to this amount, Rs. 2000/- awarded towards funeral expenses, Rs. 2000/- awarded towards love and affection and claimant no. 1 Lajwanti, being widow is awarded another amount of Rs.5000/- on account of loss of consortium. Hence, the Tribunal awarded an amount of Rs. 7,81,100/- to all the claimants being widow, sons and daughters in equal shares.

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. 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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 4,405/-per month
(ii)	40% added in (i) towards future prospects	Rs.4,405 + 1762=Rs.6,167 /-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iii)	1/4 th deducting from (ii) towards personal expenses	Rs. 6,167-Rs. 1,542 (approx)= Rs. 4625/-
(iii)	Multiplier applied	Rs.4,625X12X15= 832,500/-
(iv)	Compensation towards conventional heard	Rs. 70,000/-
	Total Compensation awarded (iii)+(iv)	Rs. 832,500 + Rs. 70,000 =Rs. 902,500/-
	Enhanced amount of compensation	Rs.902,500 -7,81,100=Rs.121,400/-

The enhanced amount of compensation of **Rs.121,400/-** 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.

17.01.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No