

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

**FAO No.1852 of 2015 (O&M)
Date of decision: 07.03.2018**

Karnail Singh and another

....Appellants

Versus

Gordhan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Sheoran, Advocate,
for the appellants.

Mr. Pardeep Kumar, Advocate,
for respondent No.2-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, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 31.03.2014, on account of death of Suresh in a motor vehicular accident which took place on 01.06.2012. Appellants are parents and respondent No.3 is brother of deceased .

FACTS NOT IN DISPUTE

Brief facts of the case are that on 01.06.2012, at about 12.30 P.M., Bhanwar Pal son of Balbir Singh had gone to petrol pump for taking oil on his tractor. When he reached near Dhani Rahimpur, an I-10 vehicle (white coloured) bearing registration No. RJ-18-CA-6483 was going ahead of him. The said vehicle was being driven by Suresh son of Karnail Singh,

whereas Rinku son of Jagdish Chander and Anil son of Subi Ram were

sitting therein. In the meantime, a dumper bearing registration No. HR-61-A-4327, being driven by Gordhan Singh-respondent No.1 in a rash and negligent manner, came from wrong side and struck against the I-10 vehicle, as a result of which, all the occupants namely Suresh, Rinku and Anil received injuries. They were shifted to the hospital, but they succumbed to the injuries. With regard to the incident, FIR No.89 dated 01.06.2012, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Loharu. 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 offending vehicle by respondent No.1, as a result of which Suresh, Rinku and Anil died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Bhanwar Pal (PW-1), who was an eye witness of the accident and on whose statement, FIR Ex.P1 was registered. Further, the claimants have proved on record copy of charge sheet Ex.P3 and report under Section 173 Cr.P.C. Ex.P4.

In the absence of any documentary proof, income of the deceased-Rinku was assessed as Rs.6160/- per month. Out of this, 50% amount was deducted towards personal expenses of the deceased and dependency of claimants came to Rs.3080/- per month i.e. Rs.36,960/- per annum. The deceased was 25 years of age at the time of accident/death. He was a bachelor. Tribunal has applied the multiplier of 13 keeping in view the age of the claimants, who are parents of the deceased. The dependency

of claimants came to Rs.4,80,480/- (36,960/- x 13). In addition to this, claimants were also awarded a sum of Rs.20,000/- as transportation of dead body and last rites. Hence, the claimants were found entitled to total compensation of Rs.5,00,480/- along with interest @ 6% 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.

Learned counsel for the appellants has argued that the deceased was 25 years of age at the time of death/accident, therefore, multiplier should have been applied keeping in view the age of deceased, whereas, the Tribunal has applied the multiplier of 13 keeping in view the age of his parents.

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 this case, the Tribunal has wrongly applied the multiplier of 13 keeping in view the age of father of deceased. In view of the age of deceased, the multiplier of 18 should have been applied while assessing the compensation. 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
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(i)	Income	Rs.6160/- per month
(ii)	40% of (i) above to be added as future prospects	6160 + 2464 = Rs.8624/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	8624 – 4312 = Rs.4312/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4312/- x 12 x 18 = Rs.9,31,392/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,61,392/-
(vii)	Enhanced amount of compensation	Rs.9,61,392 – 5,00,480 = Rs.4,60,912/-

The enhanced amount of compensation of **Rs.4,60,912/-** 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 allowed.

(RITU BAHRI)
JUDGE

07.03.2018
ajp

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